

**Paper originally presented at the 19th Annual Symposium on Conflict Resolution
Friday, February 5, 2010, Ottawa, Ontario, Canada**

*The Annual Symposium on Conflict Resolution is a joint collaboration of:
The Centre for Conflict Education and Research, Department of Law, Carleton University
Conflict Studies Program, Saint Paul University, and
The Common Law Section, University of Ottawa*

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Abstract

This paper is divided into two sections. The first section compares face to face conflicts and bullying to cyber conflicts and cyber bullying. The second section discusses the benefits and disadvantages of online mediation.

Key Words: Cyber conflict, cyber bullying, online dispute resolution

Introduction

This paper will be divided into two major sections. The first section will discuss cyber conflict. Workplace conflict tends to increase during recessions as more stress is experienced in the workplace. The increase in the use of technology as a method of communication has also introduced new conflict types, such as cyber conflict and cyber-bullying. Organisations may not have an explicit policy regarding cyber-conflicts which may make their successful resolution slightly more challenging. The second section will discuss the impacts of information communication technology and mediation. Online mediation and dispute resolution for the purposes of this paper will include any use of software designed for dispute resolution, such as Juripax¹, as well as any computer-based communication tools which facilitate communication over distances. Examples of communication tools not expressly designed for mediation includes voice over internet provider software, such as Skype, chat channels, and instant messaging services.

¹ <http://www.juripax.com/>

Section I Cyber Conflict

The Case of Paying Attention to Workplace Conflict and Workplace Cyber-Conflict

“Research into the causes and effects of cyber-bullying is still in its infancy. But it is becoming clear that aspects of online communication encourage people to act aggressively, prompting them to do things they wouldn't dare to try in real life.”²

Cyber Abuse encompasses a wide range of abusive or aggressive activities which occur online. These activities may include bullying, stalking or sexual solicitation. In the specific case of cyber bullying, the bullying may occur through emails, instant messages, cell phones and social networking sites. The intent of the bullying is to threaten, harass and embarrass the other party. (Mishna et al, 2009, p. 108)

In 2002, Warren Shepell, conducted the study *Work-Related Stress: An EAP's Perspective*. This Canadian study revealed that work-related stress and work-related conflict were among the top eight reasons why employees requested counseling assistance. This study also concluded that there was a drastic increase in work-related conflict.³

A May 2005 Washington Business Journal article indicates that there are extremely high costs associated with workplace conflict. It is estimated that managers spend between twenty-five to forty percent of their time addressing employee conflict. In addition to these costs, there are the other costs associated with lost productivity and employee disengaged.⁴

There are several trends occurring in workplaces that warrant additional attention. The first trend which needs attention is the economic downturn caused by the Global Financial Crisis. According to Workplace Violence News, workplace bullies (face to face as well as cyber bullies) increase their hostility during poor economic times. In times of economic recession or depression, the focus of employers is on protecting their revenue and sales, no matter how that is achieved. Also, managers and employees are placed under greater stress during recessions and depressions, drawing attention away from constructive criticism and collaboration, towards fierce competition to retain one's own employment, as well as the survival of the firm. As the recession deepens in several economies, including the United States, it is expected that workplace bullies increase their “reign of terror”.⁵ In an interview for Workplace Violence News, Gary Namie, Director of Workplace Bullying Institute, said:

“The downturn’s layoffs might make a bad situation worse for victims [...] *[the]* absolute control of an employer is more apparent in a recession.”⁶ (Italicized word added by author)

² <http://www.newscientist.com/article/mg19526136.300-the-rise-of-cyberbullying.html>

³ <http://www.shepellfgiservices.com/newsroom/pr-nov152002.asp>

⁴ <http://washington.bizjournals.com/washington/stories/2005/05/09/smallb6.html>

⁵ <http://workplaceviolencenews.com/2009/12/14/bad-bosses-actually-may-get-worse-with-recession/>

⁶ <http://workplaceviolencenews.com/2009/12/15/guard-yourself-against-harassment/>

As technologies are increasingly used as a means of communication and as workplaces incorporate new communication tools, telecommunications is gaining prominence in many employees' tasks and requirements. Employees need to access information available at another office or factory, customer service representatives need to contact the warehouse, located in another city, and components are often manufactured across international boundaries.

Cyber-bullying is increasing in the workplace.⁷ One in ten workers in the UK has experienced cyber-bullying.⁸ A survey conducted by Campbell and Grove of members of the Australian Manufacturing Workers' Union (AMWU) found that thirty-four percent (34%) of respondents reported they were bullied face to face at work while just under eleven percent (10.7%) were cyberbullied. All victims of cyberbullying were also bullied face to face. (Campbell & Grove, 2009, p. 395)

HRTechNews reports the following:

“In a recent survey by a UK-based organization, one in five workers said they’d been bullied at work via e-mail, and one in ten said they thought electronic bullying was a problem in their workplace. Granted, that was a survey of British workers, so it’s possible they just aren’t as good at face-to-face conflict as we are over here. Nonetheless, we’d probably see similar results in a survey of American employees.”⁹

When taking into consideration that workplace conflict tends to increase during tough economic times, there is strong evidence to suggest that workplace conflict and workplace conflict experienced in online forums will continue to be concerns that employers as well as employees face for some time to come. The negative impacts of increasing cyber-based workplace conflict does have a negative impact on worker morale and subsequently productivity.

Workplace Conflicts

Is there a difference in typologies between face to face conflicts and cyber conflicts?

Moore argued that face to face workplace conflicts occur in one or more of the following areas: i) data conflicts, ii) interest conflicts, iii) values conflicts, iv) relationship conflicts, v) structural conflicts.¹⁰ Other workplace conflict typologies include conflicts in the following areas: i) workgroup conflict and innovation, ii) conflict in work teams, iii) relationship conflicts, iv) task conflicts, and v) process conflicts. (Jehn, 2000)

⁷ <http://ezinearticles.com/?Cyber-Bullying-in-the-Workplace---When-Bullies-Use-Technology-to-Launch-Their-Attacks&id=1925602>

⁸ <http://www.personneltoday.com/articles/2007/07/26/41707/one+in+10+workers+experiences+cyber-bullying+in+the+workplace.html>

⁹ <http://www.hrtechnews.com/are-there-cyber-bullies-in-your-office/>

¹⁰ http://www.cios.org/encyclopedia/conflict/Eskills8_assessmenttools4.htm

In terms of cyber conflict, there appears to similarities in the types of conflicts but also additional challenges unique to cyber-space. While conflicts over process, information or values can and do occur in cyberspace, the unique fluid social sphere of cyber space does create its own types of conflicts. Choi argues that e-based adjudication is extremely difficult in situations in which the parties to a conflict are in several jurisdictions and enforcement of an agreement is difficult. However, in real world complex conflicts which span many jurisdictions, online dispute resolution can be extremely beneficial. Online dispute resolution can span jurisdictions and time zones, thereby mimicking some aspects of the conflict. This can assist the parties to the conflict to reach a mutually agreeable settlement. (Choi, 2003, p.p. 1-3)

While initial evidence does suggest that there is little difference between the types of conflicts expressed in cyber space, there are some differences as to who participates in cyber conflict. A party can be in conflict with another, in cyber space, but lack sufficient access to engage the other party in cyber space. Moreover, the parties may not know each other in face to face settings and may not ever meet each other face to face. Consequently, this creates a unique situation of which practitioners need to be mindful.

Is there a difference between workplace bullying face-to-face and cyber bullying?

In terms of relationship conflicts, mobbing has been used to describe bullying which is centered in the workplace. The term mobbing is bullying specifically in the workplace. In terms of face to face bullying, Zapf and Einsaren argue that there are three categories of mobbing i) self-regulatory processes, ii) lack of social competencies, iii) bullying as a result of micropolitical behaviour. (Zapf and Einsaren, 2002, p. 170) Matthiesen and Einarsen found that men were more likely than women to engage in mobbing. It was also found that managers were more likely to engage in mobbing than coworkers. (Matthiesen and Einarsen, 2007, p. 754)

The targets of the mobbing, often report that the person doing the mobbing is jealous about their personal performance and in is somehow threatened professionally or personally about the victim's high level of proficiency. (Zapf and Einsaren, 2002, p. 170) Girardi et al argue that the adult targets of face to face mobbing experience psychological harm, including high levels of stress and depression. (Girardi, et al, 2007, p. 173-174) Their study also concludes by indicating that is unknown whether or not the individual who experienced mobbing expressed these psychological traits prior to the mobbing and thus the mobbing person or group felt their vulnerability and targeted them because of it, or the victim of mobbing developed these psychological traits as a result of the mobbing. However, other studies including Harvey et al (2006), indicate that the target of the bullying may have low self-esteem or be perceived to have "not really been part of the group". That is, the person may not have been with the organisation as long as other colleagues, may have different physical characteristics, or may not have as strong relationships with other group members. (Harvey et al, 2006)

Research into cyber-bullying is very recent and has tended to focus on the dynamics of cyber

bullying by and on children. That said, there may be some useful insights into the literature of cyberbullying by adolescents to see if there any lessons learned which can be applied to an adult work setting. In a study of cyber-bullying in adolescents, Strom and Strom (2005) found that jealousy was a common motivation for cyber-bullying. (Strom & Strom, 2005, p. 22-23) As with adults, the bullier may have an over-developed sense of self or self-esteem and the target of the bullying may challenge their self-perception or self-worth. Again, in relation to cyber bullying on and by adolescents, the bullier may be someone the adolescent does not know and may post degrading, harassing or demeaning remarks on website specifically targeting one individual.¹¹ However, as mobbing refers specifically to workplace bullying, it is more than likely that the target of mobbing knows the mobber personally. That is one aspect that is different between adolescent cyber-bullying and workplace mobbing.

One shared characteristic between face to face workplace mobbing and cyber bullying, from the findings above, is that the target of the bullying is perceived to possess qualities or traits that the bullier does not have and is somehow threatened by them. This then ties into the psychological profile of the bullier making self-esteem and specific self-esteem categories extremely relevant when addressing the bullying.

Cyber Conflict and Cyber Bullying Detection

There are several ways for an employer to detect whether or not a conflict is transpiring in the workplace. In face to face interactions, if the same concerns or issues keep coming up, then they are not fully addressed or resolved. If these re-occurring issues are left unaddressed, they may result in conflict. Another indication that conflict may be forming is the creation of closed informal groups. While informal gatherings during lunch hour are normal and often healthy, if the group in question is particularly secretive and prohibits others from joining, this may be an indication of deeper underlying strains on workplace relationships.¹²

However, overt behaviour in face to face interactions may no longer be sufficient to gauge the emotional health of an organisation. As organisations increase the complexity of their interactions between employees, between suppliers and customers, as well as have many off-site production facilities, face to face interactions are only part of many employees' daily interactions. Face to face interactions may be sufficiently healthy and productive while electronically facilitated interactions may be prone to conflict. This has raised concerns about how employers are monitoring for conflict formation, as monitoring outward explicit face to face interactions and behaviour may no longer be sufficient to get a complete picture of the totality of their social and business-related interactions.

As technology has facilitated communication across mediums, thereby transposing some

¹¹ Article Title: 'Bullying Doesn't Just Happen in the Playground Any More'. Newspaper Title: The Mail on Sunday. Publication Date: November 1, 2009. Page Number: 42. COPYRIGHT 2009 Solo Syndication Limited; COPYRIGHT 2009 Gale, Cengage Learning

¹² <http://ezinearticles.com/?id=597298>

conflicts into different areas, there are some technologies currently available for monitoring electronic workplace communications. Examples of electronic communication monitoring include recording telephone calls and software which records the information on an employees' desktop and their server and internet usage. Some software packages that monitor employees' electronic behaviour (which programmes are accessed, for how long; which websites visited and for how long, and electronic communication) include SoftActivity¹³, Track4Win¹⁴, and SurveilStar.¹⁵ Such technologies must be implemented in accordance with the privacy laws of the jurisdiction. With that said, employers can monitor telephone calls, monitor emails and other electronic communications to determine if there is a pattern of growing hostility in the communication. That may be a sign of a conflict being formed and the employers may intervene in the discussion prior to the situation becoming a full-out conflict. However, monitoring employee communications and becoming aware of a potential dispute or conflict is not sufficient. Employers must also act in an appropriate and timely way on the information gained.

Prior to purchasing and implementing such software, employers need to consider many things including whether or not there are other means to detect any potential conflicts occurring through electronic communications. Employers may decide that existing conflict resolution policies within the organisation can be modified to include the electronically-based disputes or conflicts. Employers may decide soliciting and implementing suggestions from employees on this matter may be more beneficial given their specific corporate culture than any form of electronic communication monitoring. If the decision is made to monitor electronic communications, the executive management must communicate very clearly the intent and the purpose of such monitoring. The application of such software without sufficient notice may create its own conflict, as some employees may feel that they are being unjustly monitored or spied upon. Local laws must also be taken into consideration, as different jurisdictions may have different laws regarding employee monitoring. Moreover, the follow-up process, once an electronically-based conflict has been detected, must be clearly communicated. Is it to be a different process than a face-to-face conflict resolution process, or is it to be the same process only done through electronic communication? Regardless of the way employers decide to monitor electronic communications for conflicts, it is imperative that the resolution process is clearly understood by all employees, readily available, and capable of addressing the dispute or conflict at hand.

From the available evidence, cyber conflicts and bullying occur in much the same as face to face conflicts and bullying. The one significant difference is that cyber-bullying can be done by a complete stranger. As more and more communication occurs using telecommunications technologies, more and more conflicts will be transposed or formed into digital settings. As such, employers must review their conflict resolution practices, determine if any changes are required, and roll out policies for the detection and resolution of disputes and conflicts occurring

¹³ <http://www.softactivity.com/employee-monitoring.asp>

¹⁴ <http://www.track4win.com/>

¹⁵ <http://www.surveilstar.com/>

in different communication mediums.

Section II Online Conflict Resolution

Conflict resolution is about facilitating communication between two or more parties to reach a mutually agreed upon solution. Mediation is one form of conflict resolution. Mediation can be carried out in-person or online. Online mediation can be done in real-time or with a time lag, meaning that the parties post a response and wait perhaps hours, days or weeks before the other party responds. The time lag may cause some concern or distress in one or more parties. For the purposes of this paper, online mediation is defined as assisted negotiation between two or more parties with a neutral third party facilitating the communication between the parties using any form or combination of telecommunications. Telecommunication technology may include, but is not limited to, voice over internet provider software, an online chat forum, emails, or a specific software package designed for dispute resolution.

There are different alternative dispute resolution mechanisms available to participants, including but not limited to mediation and arbitration. As this paper is focused on trends and implications for online resolution, how the participants interact through online means is important to understand. It is possible that not all types of disputes or conflicts are suitable for resolution through online means.

Online dispute resolution has its origins in the Internet Corporation for Assigned Names and Numbers (ICANN) dispute resolution process. This process posted the decisions of the panelists. The ICANN online dispute resolution process received significant legitimacy from the participants as well as the broader internet using public. (Katsh, 2006, p. 10) As this initial process for dispute resolution was largely done through electronic communication between parties who were geographically distant from one another, it is largely viewed as the first online conflict resolution mechanism. From these initial days, online dispute resolution has grown to include automated negotiation platforms, assisted mediation and arbitration as well as online mediation.

The next section will explore the use of mediation skill sets in online settings, how they are similar and how they differ. Greater understanding of how skills transfer from one medium encourages greater innovation and adaptivity to better meet the needs of the parties involved in the dispute or conflict.

Transferability of Mediation Skills in Cyber Space

Managing expectations of process, meaning and outcomes in online conflict resolution platforms is extremely important. In terms of managing expectations over outcome, there are some interesting lessons learned from online courses which can be applied to online conflict

resolution. Reisetter et al (2007) investigated differences in expectations and outcomes of the same course material taught in two different ways. One group was taught the course material through traditional teaching methods, that is in a physical class in which physical attendance was required. The second group was taught the same material in an online forum. Reisetter et al noted that both groups indicated similar levels of satisfaction with the course they took. The traditional group, in which physical attendance was a required component of learning, emphasised the communal aspect to their learning. That is, the ability to lean across and ask a fellow student a question, to see the faces of other participants as well as see the instructor's body language, all had a part in the communal experience. The students which took the same course online, on the hand, emphasised the importance of being able to learn according to their personal schedule. In this way, the learning was much more individualised and personalised. Accessibility to the teacher, through online communication, met their needs as well. (Reisetter et al, 2007)

“Expectations of the teacher also contrasted. The campus groups expected her to interact effectively, to mediate the content to support their learning, and to be available for help other times. The online class members expected her to create a course that was well-structured, organized, coherent and user-friendly - one they could use without further support.” (Reisetter et al, 2007)

Vandergriff (2006) investigated negotiation practices using technology. This study compared how participants signaled comprehension of the other party in face-to-face as well as computer-mediated-communication. For this study, computer-mediated-communication was a chat board in which participants would read responses and post replies. Vandergriff cited the Interactive Hypothesis, on which participants resolve their communication through the seeking of meaning. To achieve meaning in the communication, the participant asks clarifying questions or intentionally seek confirmation by the other party. Participants in the study were provided with two tasks and their response strategies were evaluated. In efforts to determine meaning, respondents used a variety of comprehension strategies including: global reprise, specific reprise, hypothesis testing and forward inferencing. The results demonstrated no significant difference in response strategies between face-to-face interactions and computer-mediated-communication. There was a slight difference in response strategies based on tasks, but not on how the communication pertaining to the tasks across communication mediums. (Vandergriff, 1996, p.p. 111-116)

Several studies have been undertaken to determine the impact of communication through technology (telephone, videoconferencing, internet-based forums). For example, Sellen (1995), examined if and how communication changes according to types of technology used to communicate. Sellen argued that communication is both verbal and oral. Technologies which incorporate both visual and auditory communication (such as videoconferencing) were hypothesised to be superior forms of communication than technologies which only incorporated auditory information (telephones for example). However, Sellen's research does not support this hypothesis. The focus of Sellen's research was on conversational flow, that is how often the speakers interrupted one another, how the transition between speakers occurred and how frequently it occurred. (Sellen, 1995, p.p. 403-405)

Sellen looked at several components of a conversation including: i) turn frequency, duration and distribution; and ii) formal handovers. According to Sellen, the lack of visual cues does not cause a breakdown in communication. Moreover, this study indicated that the type of visual information presented of the participants, does not impact on the conversation directly. Sellen did find that interruptions in the conversation were more likely to occur in face-to-face conversations than during video-conferences. Judging from questionnaires provided to study participants, Sellen argues that this is likely attributable to the degree of involvement or engagement in a conversation in face-to-face conversations than video-conferencing conversations. (Sellen, 1995, p. 430)

“The more important point, though, is that audio-only conversations showed no signs of being more formal and less interactive than when the video channel was present: Lack of the visual channel did not cause a reduction in the percentage of simultaneous speech (as predicted), and it did not affect the switch time in speaker transitions.” (Sellen, 1995, p. 432)

When using technology that was audio-only, such as a telephone, Sellen's study did not detect any changes in conversation types. Meaning, using audio-only technologies did not reduce the frequency of interruptions or changes in speaker. Comparing video-conferencing technologies and audio-technologies revealed no significant differences in interruptions, changes in speakers and spontaneous speech. (Sellen, 1995, p. 432)

From this research, it can be concluded that the method used to communicate does not impact on the quality of the communication. Also, from the above studies, the medium used to communicate does not impact what is being discussed. However, attention does need to be paid to the individuals and groups who are potentially participating in an online conflict resolution process. Dispute resolution through information communications technology mediums may not always be appropriate. For example, Reeder et al (2004), conducted a study of participation styles of an online course. The participants took a distance adult education course in Canada. The researchers tested the participants' English language abilities and found that there was no significant difference in comprehension levels. Twenty-four subjects participated in the study, representing Canadian, British Columbia First Nations (aboriginal), Middle Eastern, Southeast Asian, Southern European, German, African, South Asian, Italian, Chinese, and UK South Asian, cultural heritages. Reeder et al. Observed that the internet itself has a culture. The internet was created by Anglo-American scientists and engineers who wanted to create a means to communicate with other individuals who shared similar interests. According to Reeder et al, from its inception, the internet has facilitated an aggressive/competitive style of communication. (Reeder et al, 2004, p.90)

An observation recorded by Reeder et al was that the greater the cultural gap between participants, the more likely participants were to be misunderstood. Members of the course were encouraged to introduce themselves. The sample size was of English-speaking Canadians who were largely educated by Western institutions. Some of the participants introduced themselves through the provision of personal information while others introduced themselves

by referencing their profession. (Reeder et al, 2004, p. 93)

In specific reference to the Reeder et al (2004) study, the participants were not having their communication needs met. This is independent of what each participant took or learned from their participation in the course. In specific relation to the online communication with other course participants, the different cultural communication styles of the participants created some frustration or anxiety among participants.

The North American speakers of English described their interactions with Athabaskan speaker (a North American aboriginal group) as (Reeder et al, 2004, p. 96): not talkative, actively avoided talking, only talked to close acquaintances, and denied planning. The Athabaskan speakers commented that the North American English speakers (Reeder et al, 2004, p.p. 96-97): talked too much, always talked first, spoke with strangers, asked too many questions, always talked about what was going to happen latter, and interrupted frequently. The students self-reported these perceptions of other groups. This suggests that even through online communications, in which tone of voice and visual cues are removed from the communication equation, equal access and familiarity with the technology, roughly the same competence in language skills as well as similar educational backgrounds, there are other factors which need to be taken into consideration in order for there to be mutually satisfactory communication between the parties.

In terms of online conflict resolution, what can reasonably be accomplished through the particular software or platform must be understood by the parties to the conflict. In addition, the mediator must have realistic expectations of the software. Depending on the nature of the dispute or conflict, the use of mediation software packages may not be appropriate. If there are specific communication needs which do not lend themselves to a specific platform, then it is unlikely that online dispute resolution will satisfy the communication needs of one or all of the participants.

In order for there to be effective mediation, the parties must be able to effectively communicate, as well as comprehend the message and meaning of the other party. Even if language abilities are similar, as well as the method of communication uniform (both speaking, both typing responses in chat rooms, etc.) so as to remove any effects from imperfect communication (one party can see the other party on video, whereas the second party can only hear the first party on the telephone), the mediator must also be able to help the parties compensate for any significant differences in cultural communication styles. In the Reeder et al study, the Athabaskan speakers required additional time as well as opportunities to get to know the other students individually, before feeling comfortable in participating in large group, public, discussions. The North American English speaking students required more information about the Athabaskan speakers' communication preferences, so as to not be insulted or frustrated by differences in response times. This difference in communication styles and preferences would have been apparent in face-to-face discussions. It is not the method of communication (online forums) that highlighted these differences, rather it is the cultural

background of the participants that brought to the fore these communication differences.

When group differences and communication styles are taken into consideration, there can be suitable online processes which can be designed to meet the needs of the parties involved in the resolution process. As with face to face mediation, the parties to the dispute or conflict must agree to and be comfortable with the process. Thus, mediators are well advised to clearly inform the parties very early on about what to expect from online mediation. Moreover, the mediator must clearly understand and explain the limitations the parties may or may not face when choosing a specific process to resolve their conflict. It appears that once a compatible process has been determined, there is no substantive impact on the quality of communication between the participants.

Things to Consider Prior to Online Conflict Resolution

Katsh and Rifkin identified three factors which will determine the success of an online dispute resolution system. They are: i) Convenience, ii) Trust and, iii) Expertise.¹⁶ If online dispute resolution is being considered for a particular dispute, it is imperative that the software selected meets these three criteria or the participants may lose confidence in the process.

There remain concerns in instances of international arbitration in which an award must be enforced in a country different than the place in which the arbitrator is located. (Hornle, 2003, p. 2) The lack of enforcement of the award may prompt a resumption of the conflict. Given that not all jurisdictions have the same enforcement laws, it is imperative that the parties to the arbitration agree on the physical jurisdiction of the arbitrator. (Hornle, 2003, p. 9)

Benefits of Online Conflict Resolution

Esslinger and Lindsay (2000) argue that collaborative technology can be used effectively to employ alternative dispute resolution skills. In group settings, adopting a structured problem approach with alternative dispute resolution (ADR) techniques, encourages collaboration and problem-solving. This study focused on how ADR techniques are used in collaborative technology mediums. Collaborative technology mediums include meetingware, that is online forums, bulletin boards and other platforms in which individuals can actively participate. Depending on the software used, participants can anonymously make suggestions. Despite some changes between software, Esslinger and Lindsay argue that through the adoption of ADR techniques in these platforms, participants will (Esslinger & Lindsay, 2000):

- “Because input is anonymous, ideas are judged on their own merit rather than being identified with particular parties and their known positions.”
- “The immediate sharing of ideas spurs creative thinking.”
- “Simultaneous input by all participants generates a large number of options/solutions that can be considered, while

¹⁶ <http://www.mediate.com/articles/linden7.cfm>

the polling function of the technology makes it quick and easy to reduce those options to the ones most favored by the whole group.”

- “The simultaneous input and individual voting empowers participants and gives all of them a greater sense of satisfaction with and ownership of the result.”¹⁷

David Allen Larson argues that if an online mediation occurs through a video-medium, that is that the participants can see one another, the mediator can pre-record a tailored introduction message. This allows the participants of the mediation to have reminders of the process prior to each session. (Larson, slide 52)

Online mediation can reduce the costs of resolving a dispute. Provided the parties have relatively equal access to the technology, online dispute resolution will reduce travel costs as well as time requirements. As costs are reduced, access to conflict resolution services can be increased to include other individuals or groups which might otherwise not have access to mediation services. If the dispute is strictly monetary in nature and liability is not at issue, a system of online blind bidding or “automated negotiation” may be implemented. This permits the parties to the dispute to enter, online, their offer or what they are willing to accept. When the numbers fall within a predetermined range, the software considers the dispute resolved. Such a system is optimal when there are only two parties to a dispute and both parties agree on liability as well as the award being entirely monetary in nature.¹⁸ However, when there are multi-parti conflicts, the use of technology for communication may not be as effective. For example, when there are five parties to a dispute and the process is occurring over the telephone, it may often be the case that the parties interrupt one another, for lack of visual cues as to who will speak next.

Ross argues that there are many online dispute resolution platforms which provide the parties to the dispute or conflict with an opportunity to participate in an extremely well structured pre-mediation session. One such online facility is TheClaimRoom¹⁹, a second is Cybersettle.com.²⁰ Knowing that the documents submitted in the pre-mediation process, will be archived and available throughout the resolution process, may oblige participants to carefully think through the documents they submit as well as the wording of the stories. This helps maintain the focus of the parties as well as review documents and previous discussions. Other communication tools, such as Skype, permit individuals to record the telephone conversation. This allows participants to review what was said and by whom, creating another type of historical record of the proceedings. On the condition that enforcement issues are not a concern in a particular dispute, online mediation can also help resolve issues concerning a court's jurisdiction. It may

¹⁷ Esslinger, P.; Lindsay, C., (2000), “Using Technology to Support Alternative Dispute Resolution”, *The Public Manager*, Vol. 29 (2), Bureaucrat Inc., Gale Group.
http://findarticles.com/p/articles/mi_m0HTO/is_2_29/ai_n25031150/pg_3/?tag=content:coll (Accessed December 21, 2009)

¹⁸ Cyberspace Policy Center for Asia Pacific, <http://www.cpcap.org/odr/philippine-odr/> (Accessed January 5, 2010)

¹⁹ <http://www.themediationroom.com/>

²⁰ <http://www.cybersettle.com/pub/>

not always be clear whether or not a “real-world” court has say over a particular dispute. In such cases, an online conflict resolution setting which is not court supervised may prove beneficial to the parties involved.²¹

Online dispute resolution also expands the pool of potential customers and subsequently, it also expands the options available to people who are experiencing a dispute or conflict. As more people gain access to dispute resolution services, there is greater potential for awareness of alternative dispute resolution mechanisms and their utility in different settings. In turn, this can enhance the services offered by a mediator or a dispute resolution firm, as well as enhance the quality of life and work for those using the services.

Disadvantages of Online Conflict Resolution

The term used by Larson and Mickelson for online dispute resolution is Technology Mediated Dispute Resolution (Larson, slide 11). David Allen Larson identified some of the key obstacles of online mediation from the point of view of clients. (Larson, slide 14)

- Need for face to face contact
- Technology does not fully address the clients' needs
- The parties to the mediation need both verbal and non-verbal cues

The ability to access the technologies for online dispute resolution, arbitration or mediation may put one or several of the parties at a disadvantage. (Hornle, 2003, p. 8) Other concerns regarding the technology used for online dispute resolution have been identified by Lodder et al. As there are different software options for online dispute resolution, the ability of clients to transfer their particular case to another software platform might be hampered by compatibility issues between software programs. (Lodder et al, 2008, p. 9) Tied into the software based concerns, are uneven power distributions between the parties to the conflict. Additional concerns arise when one of the parties is not very articulate nor comfortable using technology-assisted alternative dispute resolution software. (Mann, 2009, p. 83) Not all software packages provide technical support beyond getting the software to work as designed. Some software companies may choose to offer this associated service, of helping participants become more familiar with the method of communication, however it is not widely available. Technical assistance to the parties, to become comfortable and articulate in the communication medium will largely fall to the mediator. The mediator may also provide assistance to the party not comfortable with the technology or not as expressive. It may not be appropriate for the mediator to provide particular assistance to one of the party's to help them familiarise themselves with the technology. In such instances, the use of a separate conflict coach may help balance power between the parties. The cost of a conflict coach must also be taken into consideration, should the mediator offer this as a means of balancing power between the parties

²¹ <http://www.law.duke.edu/journals/dltr/articles/2003dltr0004.html>

or enhancing the meaning of the process for all parties concerned.

Depending on the complexity of the dispute or conflict, online mediation services may not be sufficient to address all of the concerns of the parties to the conflict. Documenting the evidence may prove easier in an online format, however building trust for effective communication may prove more challenging through a computer screen or teleconferences. It may also prove more challenging for the parties to foster empathy for the other's interests and concerns given the lack of face to face communication, tone of voice and other non-verbal body language. The role of the mediator is also slightly altered during online mediations. In face to face mediations, the mediator is able to make light hearted comments and intervene more quickly if the parties to the conflict stray from the process. However, in more complex conflicts that are brought to an online dispute forum, the mediator can not as easily project their professionalism or humour in online settings.²²

Another matter that needs to be addressed in online dispute resolution is the confidentiality of the discussions between the parties. Traditional face to face mediation does not usually leave transcripts of what was said. However, as online dispute resolution often leaves written evidence of the interactions between the parties, it may prove difficult for the parties to fully express their intentions and interests, knowing that there is a written record of their comments.²³

Conclusion

The first section of this paper compared face to face conflicts and bullying with cyber-based conflicts and cyber-bullying. From the available evidence, there appears to be no significant difference in how these two types of conflicts are formed nor any significant difference in typologies or types of conflicts experienced in the two communication medium. The one slight difference is with cyber-bullying, in which an anonymous person can engage in cyber-bullying. This is not the case in face-to-face bullying, where the parties know one another.

Online mediation when defined as assisted negotiation between two or more parties with a neutral third party facilitating the communication between the parties using any form or combination of telecommunications, can be used to resolve both face-to-face and online conflicts.

Online mediation has distinct advantages. These include: reducing the cost of participating in a mediation, can provide a highly structured mediation, provides archives of sessions which can be reviewed at any time during the process, and can expand the pool of potential participants or clients given that participation is not based on physical location.

²² <http://www.law.duke.edu/journals/dltr/articles/2003dltr0004.html>

²³ <http://www.law.duke.edu/journals/dltr/articles/2003dltr0004.html>

That said, online mediation also has some distinct disadvantages. Depending on the nature of the conflict, specific software may not be well suited to address or integrate complicated multi-issue, multi-party conflicts. While online communication between parties which are equally familiar with the technology and are fairly equally articulate, online forums may not be appropriate for individuals who are not comfortable with technology-assisted communication. Depending on how the sessions are mediated, there may be some frustration among the participants if they talk over one another for lack of visual clues. Also, there may be some legal concerns surrounding the documentation of discussions during mediation. The parties to the mediation may not be comfortable with the creation of transcripts.

In conclusion, should mediators wish to adopt online dispute resolution services, they need to be aware of the advantages and disadvantages of online mediation. Moreover, practitioners need to consider how they will overcome the disadvantages. Some of the disadvantages may be overcome through the use of a conflict coach for one or more parties, through specific tutorials on how to use the technology, or through a combination of online and face to face sessions.

Acknowledgments

The author would like to thank Dr. Evan Hoffman for his insightful feedback and comments.

References

- Campbell, M.A.; Grove, K., (2009), “Cyberbullying: The New Face of Workplace Bullying?”, *CyberPsychology & Behavior*, Vol. 12, Issue 4, Mary Ann Libert Inc. Publishers.
- Choi, D., (2003), “Online Dispute Resolution: Issues and Future Directions”, *Proceedings of the UNECE Forum on ODR 2003*, <http://www.odr.info/unece2003/pdf/daewon.pdf> (Accessed January 5, 2010).
- Cyberspace Policy Center for Asia Pacific, <http://www.cpcap.org/odr/philippine-odr/> (Accessed January 5, 2010).
- Esslinger, P.; Lindsay, C., (2000), “Using Technology to Support Alternative Dispute Resolution”, *The Public Manager*, Vol. 29 (2), Bureaucrat Inc., Gale Group. http://findarticles.com/p/articles/mi_m0HTO/is_2_29/ai_n25031150/pg_3/?tag=content;coll (Accessed December 21, 2009).
- Girardi, P.; Monaco, E.; Prestgiacomo, C.; Talamo, A., “Personality and Psychopathological Profiles in Individuals Exposed to Mobbing”, *Violence and Victims*, Vol. 22 (2), Springer Publishing Company, ProQuest LLC.
- Harvey, M.; Heames, J.; Richey, R.; Leonard, N.; (2006), “*From the Playground to the Boardroom*”, *Journal of Leadership & Organizational Studies*, Vol. 12 (4), Baker College System – Center for Graduate Studies, Gale, Cengage Learning.
- Hornle, J., (2003), “Online Dispute Resolution – More Than The Emperor's New Clothes”, *Proceedings of the UNECE Forum ODR 2003*, <http://www.odr.info/unece2003/pdf/Hornle.pdf> (Accessed January 5, 2010).
- Jehn, K., (2000), “Benefits and Detriments of Workplace Conflicts,” *Public Manager*, Summer 2000, http://findarticles.com/p/articles/mi_m0HTO/is_2_29/ai_n25031148/ (Accessed January 9, 2010).
- Katsh, E., (2000), “Online Dispute Resolution: Some Implications for the Emergence of Law in Cyberspace”, *Lex Electronica*, Vol. 10(3), Hiver/Winter 2006, http://www.lex-electronica.org/docs/articles_65.pdf (Accessed January 8, 2010).
- Larson, D.A., (2008), “Technology Mediated Dispute Resolution (TDMR) and the Deaf Community: A Community Prepared to Receive and to Lead”, paper presented at the 2008 *International Forum on Online Dispute Resolution*, Victoria, British Columbia, Canada. <http://www.odrforum2008.org/files/odrforum2008/tmdr-deaf-community-larson-jun08.pdf> (Accessed January 4, 2010).

Lodder, A.; Borri, A.; Gouimenou, J.; Hutchinson, B.; Tilman, V., (2008), "Towards Standardisation of Online Dispute Resolution Tools", <http://ftp.informatik.rwth-aachen.de/Publications/CEUR-WS/Vol-430/Paper2.pdf> (Accessed January 4, 2010).

Mann, B.L., (2009), "Smoothing Some Wrinkles in Online Dispute Resolution", *International Journal of Law and Information Technology* Vol. 17 (1), Oxford Journals.

Matthiesen, S.B.; Einarsen, S.; "Perpetrators and Targets of Bullying at Work: Role Stress and Individual Differences", *Violence and Victims*, Vol. 22 (6), Springer Publisher Company, ProQuest LLC.

Mishna, F.; McLuckie, A.; Saini, M., (2009), "Real-World Dangers in Online Reality: A Qualitative Study Examining Online Relationships and Cyber Abuse", *Social Work Research*, Vol. 33 (2), National Association of Social Workers, Gale, Cengage Learning.

Reeder, K.; Macfayden, L.; Roche, J.; Chase, M., (2004), "Negotiating Cultures in Cyberspace: Participation Patterns and Problems", *Language, Learning & Technology*, Vol. 8(2), University of Hawaii, National Foreign Language Resource Center, Gale Group.

Resietter, M.; Lapointe, L.; Korcuska, J., (2007), "*The Impact of Altered Realities: Implications of Online Delivery for Learners' Interactions, Expectations and Learning Skills*", *International Journal of Learning*, Vol. 6(1), Association for the Advancement of Computing Education, ProQuest LLC,
<http://www.thefreelibrary.com/The+impact+of+altered+realities+implications+of+online+delivery+for..-a0159594389> (Accessed December 21, 2009)

Sellen, A., (1995), "Remote Conversations: The Effects of Mediating Talk with Technology", *Human-Computer Interaction*, Vol. 10 (4), Taylor & Francis.

Vandergriff, I., (2006), "Negotiating Common Ground in Computer-Mediated versus Face-to-Face Discussions", *Language, Learning & Technology*, Vol. 10(1), University of Hawaii, National Foreign Language Resource Center, Gale Group.

Internet

<http://www.softactivity.com/employee-monitoring.asp>

<http://www.track4win.com/>

<http://www.surveilstar.com/>

<http://www.themediationroom.com/>

<http://www.cybersettle.com/pub/>

<http://www.law.duke.edu/journals/dltr/articles/2003dltr0004.html>