

# 8th Asia Pacific Mediation Forum Conference

Da Nang, Vietnam 13 November 2017

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### The Work of Jacqueline Morineau

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By Margaret Ross

<http://www.asiapacificmediationforum.org/wpfiles/wp-content/uploads/2017/11/ROSS-PAPER-Humanistic-Mediation-PDF.pdf>

This paper is an introduction to the philosophy and practice of humanistic mediation developed in France by Jacqueline Morineau in the early 1980's. Ms Morineau has written three books elucidating her approach to mediation<sup>1</sup>. They have not yet been translated into English and so her profound view of mediation has not greatly influenced the Anglocentric mediation world. The aim of this paper is to assist with the introduction of her teachings to the global mediation world as she brings a unique and valuable voice to our discourse.

Morineau writes in her third book *Humanistic Mediation*,<sup>2</sup> that mediation was introduced into France by the Minister of Justice in 1983, Robert Badinter. He was committed to the French system of justice returning to its ancient origins of true justice and was searching for a better way to deliver it. He therefore sent his director of research in the Ministry of Justice, Jacques Vérin, to the United States to discover the potential of mediation which had been developed there in the 1970's. Vérin was a man of wisdom and humanity and he returned to France enthusiastic about what he had experienced there. He saw in mediation a possible way to humanise the law.

With the impetus of Vérin and Badinter, Morineau was then appointed by the government to create the first mediation system for penal cases and the assistance of victims of crime. She was given a virtual blank slate and had to draw on her own inner resources and knowledge in order to develop this new humanistic method.

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<sup>1</sup> *L'esprit de la médiation*, [The spirit of mediation] Toulouse, érès, 2014; *Le médiateur de l'âme, Le combat d'une vie pour trouver la paix*, [Mediator of the soul, one life's battle to find peace] 2008, Nouvelle Cité, ; *La médiation humaniste, Un autre regard sur l'avenir*, [Humanistic Mediation, another view of the future] érès, 2016

<sup>2</sup> *La médiation humaniste*, érès, 2016, p.30-31

Her training and love was in archaeology not in conflict resolution. She specialised in the study of Greek currency (numismatics) and was a researcher at the British Museum for many years before she took on the challenge of developing mediation in France. She has an abiding love of ancient Greek art and mythology and drew upon it for the source of the practice she describes as humanistic mediation.

The deep human truths, harmony, beauty and peace she found in ancient archaeology helped her find meaning in her own suffering and life experiences. They led her to explore the ancient roots of mediation and to apply their lessons to the human conflict and pain she was asked to address by the French government. She combined these with her own deep understanding of herself and of others in their suffering to form a profound method of resolving conflict and transforming pain.

Morineau established the Centre for Mediation and Mediation Training in France (CMFM) which continues to thrive today. Her work has spread through France and Europe and has been adopted in many areas of dispute besides conflicts caused by crime.

For Morineau every conflict hides a profound dimension which must be flushed out.<sup>3</sup> She says that the crisis at the heart of mediation opens us to the quest of knowing one self. It is a journey to our “inner home”, a secret house which children know, where visible and invisible, inner and outer, sacred and profane are joined in the imaginary world of the self.

Mediation can open the door to this world through having to travel into the source of one’s own pain and seeing the other’s suffering. Morineau’s language and concepts are metaphysical and spiritual. She describes the “mysterious alchemy” of mediation that occurs in the moment and the space when all are gathered together to focus on the crisis or problem. She believes it opens the mediants (parties to mediation) to a new awareness in which there is inner freedom. It is the world of the soul, the spirit, of the highest of human values.

She states that the roots of mediation are found in humanity’s quest to bridge the gap separating each of us and the space between the visible and invisible, earth and sky, human and divine.

We all seek happiness, “le bonheur”, and there can be no happiness without peace, Morineau argues. The human quest for justice in the face of violence and conflict is linked to our desire for peace and happiness. The mediation developed by Morineau in the 1980’s in France and continued for the last 30 years potentially offers an experience of true justice between the participants.

In her experience the mediation process gives the participants a choice between two roads when faced with crisis and suffering – the road to death or the road to life. To choose life, Morineau submits, we need to undergo a transformation and to be reborn to a new vision of ourselves, the other and our situation. To *accept* mediation is already an opening up of the self to hope. It is also the acceptance of a meeting between people separated by conflict. To

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<sup>3</sup> Ibid, p.73

open oneself to mediation, is to open oneself to transformation, even without understanding the process. Beyond understanding lies intuition which guides one to accept the unacceptable: the meeting with the enemy, who one sees as the author of one's suffering.<sup>4</sup>

Morineau introduces us to humanistic mediation with the following true story:

*A woman is watering flowers in her garden. What flowers? Each has been planted in one of the bombs dropped on the Palestinian people in the Gaza strip in past years. Sobhya lives with her family in a village near Ramallah. Two of the bombs have killed her son in 2009 and her daughter in 2011. She has gathered others, many others, perhaps those which have killed neighbours. She has gathered many, as many as the tombs that she has buried in the earth...not to create a battlefield but to give back life. It is a private space where she cultivates hope. For each flower, well placed in its cradle of death, will be able to make life spring forth again.*

*Violence has shattered her life and that of her family, but her battle for passive resistance continues and will continue. This woman has chosen to cultivate love in the face of violence and hate, to cultivate hope instead of despair. Confronted by tragedy and the absurd, she had only two choices: to let herself die slowly or to live, and for that it was necessary to be reborn. She has chosen the second way. To be reborn it is necessary to begin with the body, through the roots, through the earth. Only from the depths can an impulse for life spring. This new life has gone beyond her, it was not only hers: it was that of all humanity, wounded, mutilated, but not annihilated.*

*Each flower that will be born will be a sign of resilience, hope, a cry of love for life.*<sup>5</sup>

Sobhya teaches us “true mediation” according to Morineau. It is this she says which becomes necessary when we have been touched at the deepest part of our being, face to face with an essential choice, to welcome life every day or to die, surviving rather than living, a shadow of ourselves, carrying the weight of our broken hearts.

Every conflict can be experienced “dramatically” for we often live it as a drama. It need not be as dramatic as the experience of Sobhya for it to touch the deepest part of our being.<sup>6</sup>

Morineau speaks to us poetically. Her language reaches into our deeper self and touches that part of us that is beyond words, that can only be expressed by art, poetry, drama, music and prayer. It is the language of the heart, of the soul. One senses that she has experienced the depth of suffering herself and can empathise with those whom she mediates. Her very being, her presence in a mediation carries a resonance which allows others to feel understood and to open to the cry of pain within them so that they can express it and transform their vision of themselves and their situation in the process.

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<sup>4</sup> Ibid, p.17 paraphrasing Bertagna G, Ceretti A & Mazzucato C, *Il libro dell'incontro. Vittime e responsabili della lotta armata a confronto*, Milan, Il Saggiatore, 2015

<sup>5</sup> Ibid p.15-16

<sup>6</sup> Ibid, p.16-17

Humanistic mediation involves the witnessing of others in their struggle with pain and conflict. Not in a neutral way, as mediators cannot avoid being affected by their feelings in a mediation, yet with humility, without judgement where possible.

As Morineau states, the practice of mediation is a life's work for mediators. We need to live it in our daily lives, in every moment of our awareness. It is not a question of techniques, rigid structures or tips and tricks.

*The practice of humanistic mediation necessitates extensive training, otherwise it can be dangerous. It is impossible to learn mediation theoretically, it is necessary to live it. There are no techniques, theories, lectures which are going to allow a meeting with the other in his or her depths; it is above all a position of humility. **Humus**, the earth. To accept meeting yourself is to discover a path which has often been missing in the educational journey. To dare to meet the suffering and violence of others, it is first of all necessary to meet one's own. The future mediator becomes her own field for apprenticeship. It is not a question of a form of wild psychotherapy, but of an ordinary (in the sense of putting in order) meeting with life experience; to learn to hear, listen, look, not with the eye of the professional, but with the language of the heart; to reunite what is often separated, the body and soul....such can define the apprenticeship of the mediator, a journey of initiation to the heart of one's own life<sup>7</sup>*

Morineau does, nevertheless, conduct training in humanistic mediation in France, Italy and other European countries and has done so for many years. She is almost 83 years of age and continues to teach in universities and private workshops. She expresses astonishment at the difficulty that her young students initially have relating to each other and forming a relationship with themselves which is a central part of her courses. Her work openly speaks of a spiritual dimension that is awakened in mediation, both in the mediators and the mediants and how, at first, her students can find it challenging to talk of concepts like the soul and spirit which they may never have considered before.

### **The Origin of Mediation**

The word mediation is the same in both French and English. It comes from the Latin verb *mediare* which means 'to be in the middle of'.

Morineau's research discovered that the word first appeared 5,000 years ago inscribed on the clay tablets of Sumeria. The civilisation of Mesopotamia in the land we now call Syria and Iraq has been described as the cradle of classical culture. It invented writing and the first sacred architectural monument, the ziggurat, meaning "the highest".<sup>8</sup> On top of these structures there was a temple. The structure was a link between the earth and sky, the human and the divine. Many civilisations have since then erected buildings in an attempt to communicate with the sky or heaven. Cathedrals are one example.

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<sup>7</sup> Ibid, pp.101-102

<sup>8</sup> Ibid, p.55

The priest was seen as a mediator between God and man. For Morineau this attempt at connection between the sacred and human is a key to understanding how mediation works. For her, mediation is a possibility of experiencing the sacred in the sense of “something radically other.... an awakening of consciousness”.<sup>9</sup>

At birth we are separated from the oneness of the womb and the mother. For humans, life is a striving to bridge this gap that separates us from each other and from the divine from whence we came and to which we will return. The human push to the vertical, to stand, to walk, is the push to reach the sky. Yet we all return to the earth, the horizontal.

Morineau describes our current society as profane, denying the sacred, invisible and mysterious part of life and ourselves. She refers to Mircea Èliade who considered that the sacred is an element of the very structure of consciousness which is indissolubly linked to man’s effort to give a meaning to life. The sacred is the space of the spiritual structure of the human being in which the inner life can develop in harmony with the outer human who “walks” in the profane world.<sup>10</sup>

These concepts are heady and perhaps beyond our intellectual grasp, particularly in our rational society which has reduced the space given to the sacred. They are however central to Morineau’s understanding of mediation. For her the sacred dimension is the human aspiration to our highest values, that which is most noble, beautiful and uplifting.

Mediation is essentially a journey of knowledge to discover a new vision of oneself, of the other and of the situation. *Mediators are only catalysts, ferrymen from one bank to another, accompanying those who are discovering for themselves the way of transformation and healing.*<sup>11</sup>

Thus, humanistic mediation is essentially transformative. Remarkably, it was developed by Morineau some 10 years before Joseph Folger and Robert Bush published their proclaimed text “The Promise of Mediation”<sup>12</sup> and first promulgated transformative mediation in the English speaking world.

Morineau’s method appears to be most similar to the restorative justice model of mediation. The origins of restorative justice are also found in the civilisation of Sumer where restitution for offences was required by the Code of Ur-Nammu (2060 BC). Restoration processes between offender and victim and the wider community have occurred in many cultures, particularly indigenous, such as in Canada and the Maori in New Zealand.

According to *Wikipedia* (in the English speaking world) Howard Zehr, who is a Mennonite, is credited with being one of the first to articulate the theory of restorative justice in his book

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<sup>9</sup> Ibid, p.56 quoting Valentino Gulino, *Mediazione Umanistica*, thèse de psychologie, université de Padoue, Italie, 2011, p.44

<sup>10</sup> Ibid, p.56-57

<sup>11</sup> Ibid, p.58

<sup>12</sup> Bush, R.A. & Folger, J.P. (1994) *The Promise of Mediation*, San Francisco, Jossey-Bass

*Changing Lenses – A New Focus for Crime and Justice*, in 1990.<sup>13</sup> In the 1970's and 1980's he pioneered victim offender mediation in the United States together with Ron Claessen and Mark Umbreit.<sup>14</sup> It is likely that their work inspired Vérin and Badinter when they decided to set up penal mediation in France.

Morineau's work bears some similarity to the concept of conflict transformation espoused by another mediator and peacemaker with a Mennonite background, John Paul Lederach.<sup>15</sup> He first started using this term to refer to his conflict resolution practices in the late 1980's. He considers that this term, rather than that of conflict resolution, is better suited to the longer term constructive change that he seeks to achieve and to an approach that is more relationship focussed than problem based. His process is more structured than Morineau's although the roots of each approach appear similar.

Morineau, too, finds inspiration in the tenets of Christianity. Indeed, she openly tells of her conversion to Christianity in her second book, *The mediator of the soul*.<sup>16</sup> She grew up rejecting the Christianity of her childhood and has been practising Zen meditation for the past 30 years. This practice may go part way to explain her ability to be deeply present in silence with mediants during mediations.

In recent years she experienced a "lightning flash" of conversion to Christianity. For her, mediation is entirely consistent with the teachings of Christ who is described in the Bible as a mediator between God and man. Indeed, she sees the Bible as being all about mediation as a way of life.

Nevertheless, in mediation she does not advocate following any religion or speaking directly of things spiritual to participants. The main emphasis is on reaching people's deeper selves so that can express their highest aspirations, their deepest values like respect, dignity and freedom.

### **Humanistic Mediation – The Method**

For Morineau, humanistic mediation is a communal meeting in which the mediators and parties all have a role to play. It is an individual experience in which the participants reflect and go within themselves and it is also a collective experience. She compares it to the African model of justice or resolving conflict – endless talking underneath a tree, involving the whole village, since the quality of interpersonal relationships affects the whole group and the harmony of the village.<sup>17</sup>

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<sup>13</sup> 1990, Herald Press

<sup>14</sup> Van Ness Daniel and Karen Heetderks Strong, *Restoring Justice-An Introduction to Restorative Justice* 4<sup>th</sup> ed New Province N.J. Matthew Bender & Co Inc, 2010

<sup>15</sup> *A Little Book of Conflict Transformation*, Good Books, 2003

<sup>16</sup> Ibid

<sup>17</sup> Ibid p.97

One is reminded of the Constitutional Court in South Africa whose architecture includes at its heart a foyer that is built to resemble a tree. Former Justice of the Court, Albie Sachs, said, "Public buildings normally shut off the outside world. Normally you get swallowed up in the power of the state or corporate entity, but here the building is saying, 'I belong to you, you belong to me' " It is a demonstration of the African concept "ubuntu".

<http://www.constitutionalcourt.org.za/site/thecourt/thebuilding.htm>

The mediators bring themselves, with their life experience and self-reflection, to this process. For Morineau mediation training is an apprenticeship into the art or craft of mediation which is a life's work. It begins with work on the self.<sup>18</sup>

It is important for this method that there be more than two mediators for each dispute – at least two to five, depending on the size of the group to be mediated. There must first of all be an agreement to meet by the participants and mediators. The first step is perhaps for each participant to be seen by the other.

The mediators then invite the mediants to concentrate on the subject of their conflict and to go below the tip of the iceberg of the problem upon which they have been focussing. The mediators mirror back to the mediants what they are saying and feeling, through summarising, repeating and, through body language and silent presence, they acknowledge the cry of pain being expressed by the parties.

The mediators are catalysts and guides for the parties. They are able to sit with the mediants in their profound suffering. They may name the hidden suffering that has not been able to be spoken. This process allows each party to leave "the fortress of their convictions"<sup>19</sup> and listen to what the other is expressing.

The mediators encourage the parties to express their emotions, confront each other's pain and to go beyond emotions which can be an endless source of pain from the past. The mediators then move the discussion from the acknowledgement of pain to the sharing of deep values personal to each participant, such as respect, dignity, liberty or love.

This leads to the release or overcoming of pain by the participants and a shift from personal suffering to shared values and interests which leads to a new vision of the situation and potentially to agreement. The focus is not however on the facts in dispute but rather on the deeper feelings and the underlying values that need recognition. This is the transformation which the participants undergo.

Morineau sees the process of humanistic mediation as similar in structure and aim to Greek tragedy. It corresponds to the three rules of the unfolding of a tragedy:

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<sup>18</sup> Ibid, p.97

<sup>19</sup> Ibid, p.79



1. *Theoria* – the explaining of the problem by each according to their perspective.
2. *Crisis* – the crux of the problem is lived fully without any time limit and shared. The painful experience of the past and that which is experienced in the present moment come together. This meeting is fundamental to opening up the future.
3. *Catharsis* – the conclusion in which those who were divided meet. They are transformed and acquire a new view of the situation and so change their behaviour.<sup>20</sup>

The mediators are the “chorus” in this tragedy. They are the mirror of the tragic action. They broadcast the voice of the collective, the voice of “common” sense.<sup>21</sup> They are also the silent presence, the observer without judgement.

Morineau refers to 18<sup>th</sup> century French literature which has a three stage structure like Greek tragedy and like mediation – unity of action, unity of time and unity of place. The action occurs in the here and now of the moment.

### **The Concept of Time in Mediation**

A helpful way to conceive of what occurs in mediation is to look at the different sense of time that occurs in the mediation setting. Morineau again draws on ancient Greek mythology and thinking for concepts that can help us stretch our way of perceiving the mediation process.

We know that time is a human construct which differs between cultures. In ancient Greece there were two main aspects of time depicted in mythology and philosophy.

Cronos was the God of time. He was the son of Ouranos, God of the sky and Gaia, Goddess of the earth. He married his sister Rhea who bore him several children. He was able to see the future and it was revealed to him that one of his children would dethrone him. This was of course intolerable for him and so he devoured all of his children at birth. Thus, Cronos is linked to the memory of life and death, a permanent threat.

In our world today, time dominates us. We are constantly measuring time and our success in relation to timelines. We are led in a frenetic rhythm to an unknown destination. Scientific progress confronts us with an uncertain and mysterious future for our planet. We live unconsciously, dominated by the demands of the outside world and its timetable.<sup>22</sup>

The contrasting concept of time in ancient Greece was Kairos, which is the time of the “right” or opportune moment. It is not concerned with the duration of time like Cronos. In Christian theology a Kairos is a crisis which creates an opportunity for an existential decision. It is “God’s” time not the human understanding of time (Chronos).<sup>23</sup>

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<sup>20</sup> Ibid, pp.82-83

<sup>21</sup> Ibid, p.111

<sup>22</sup> Ibid, pp.105-106

<sup>23</sup> Tavard, George. 1962. *Paul Tillich and the Christian Message*. New York. Charles Scribners Sons

Morineau describes this as time that stops in the face of the beauty of a sunset. Such a moment opens one to a relationship with the beyond, an interior me where peace reigns. Such moments in time can occur in mediation. They transform temporality and the quality which lasts becomes favourable.<sup>24</sup>

In mediation, such a moment opens up when the parties express their pain and are heard by the mediators and each other. They exhaust their emotions and in the drama that is acted out they seek a new experience at a deeper level, the level of their values. The words of the Leonard Cohen song “Anthem” express this moment poignantly:

*Ring the bells that still can ring  
Forget your perfect offering  
There is a crack, a crack in everything  
That's how the light gets in*

*The birds, they sang  
At the break of day  
Start again, I heard them say  
Don't dwell on what has passed away  
Or what is yet to be*

*Yeah, the wars  
They will be fought again  
The holy dove  
She will be caught again  
Bought and sold and bought again  
The dove is never free<sup>25</sup>*

*Ring the bells that still can ring  
Forget your perfect offering  
There is a crack, a crack in everything  
That's how the light gets in*

These two ways of looking at time, in relation to how we see our circumstances, are given scientific support by recent research on the nature of the brain and the different ways we operate in the world.

Scottish psychiatrist Dr Iain McGilchrist has studied the brain for 20 years and has written about it in *The Master and his Emissary: The Divided Brain and the Making of the Western World*<sup>26</sup>. It is now accepted that the brain is not simply divided into logical (left) and creative

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<sup>24</sup> Morineau, Jacqueline. *Humanistic Mediation*, p.106

<sup>25</sup> Leonard Cohen. 1992. “Anthem” from *The Future*

<sup>26</sup> McGilchrist Iain. 2009. Yale University Press

and emotional (right) sides of the brain. The two hemispheres of the brain are different yet they work together.

They are better understood as the left hemisphere being highly focussed, mechanical and algorithmic and the right as broad, open, unbounded by rules and seeing the world as it is in the present, intuitive and appreciative of art, beauty and values.

The left side adheres to the letter of the law. The right side seeks the spirit of the law. Both sides of the brain are needed to operate in the world. McGilchrist suggests that the right hemisphere is the master and the left hemisphere should be the emissary. He sees the problem with the world is that the left side is in control. It is a bureaucratic, mechanical picture, dominated by technology. The right hemisphere needs to be the wise master and the left side needs to be serving the master.

McGilchrist, like Morineau, emphasises the human being. We are not machines. When things go wrong for us it is not a part of a machine that needs fixing. He says the whole feel of the world is then changed. The world only exists as we see it. He says that the human world is all about relationships not things.

### **The Mediator**

The initial preparation of the mediator is an endeavour to free him or herself from the mind in order to concentrate on the body and its feelings. This is because the mind classifies, categorises, judges and confines people to roles.

The mediators have nothing to understand. How can they understand anyone else if they can't understand themselves asks Morineau.

Mediators need to let go of judgements since they do not understand. They need to let go of their superiority, the "I know" to attain "I do not know."

They need to let go of the accumulation of knowledge in order to greet the empty inner world which becomes the vessel into which the mediants express what is beyond words.<sup>27</sup>

They need to let go of their wish to heal, to interfere with the intimacy of the mediants.

Through their preparation mediators need to become a simple mirror or receptacle of an inner space which receives an image and sends back what it has received.<sup>28</sup>

Through this method the mediators can capture a feeling unknown to the mediant which can start him or her on a new journey of awareness of himself.<sup>29</sup>

"Almost all the work of mediators consists in being in contact with their body and their feelings in order to assist the mediants to get in contact with themselves and with their deep

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<sup>27</sup> Ibid, pp.102-103ASB

<sup>28</sup> Ibid, p.103

<sup>29</sup> Jacqueline Morineau, *L'esprit de la mediation*, Toulouse, érès, p.112

truth.”<sup>30</sup> As Morineau beautifully describes it: “One leaves the language of the ego, their battle, to discover the language of the heart, which speaks to the soul.”<sup>31</sup>

Words arise from the silence of the mediators and of the mediants, words that might not have been spoken before.

Morineau states that one can learn to free oneself from the hold of the mind. Her years of practice of Zen meditation have taught her to pay attention to the present moment through concentration on the sensations of the body and the breath. She advocates this “apprenticeship of silence” which gives the mediants the space they need to allow them to start on a path towards a new self-knowledge.

Thus, the mediator must not arrive at a mediation in a state of agitation; her presence must be a source of inspiration for the mediants and not a mirror of their own confusion. What the mediator “is” has much more importance than what he or she is going to say or do. The exact state of the mediator is the result of his or permanent evolution, of her work on herself, an education in being, of self-realisation “to become human.” It is an apprenticeship to construct an inner cathedral.<sup>32</sup>

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<sup>30</sup> Florence André Dumont “Mémoire de formation a la mediation familiale.” Brussels, ASBI Mediations, 2012

<sup>31</sup> Morineau, *La mediation humaniste*, pp.103-104

<sup>32</sup> *Ibid*, p.104

