

SPECIAL COMMENT

COURAGEOUS CONVERSATIONS: ALIGNING THE OCCUPY WALL STREET AND THE MEDIATION MOVEMENTS

*Raymond Shonholtz**

INTRODUCTION

Originally prepared as a speech for the Oregon Mediation Conference, November 2011, the following has been modified for a wider audience concerned about the role of mediators and the mediation movement in relation to the Occupy Wall Street Movement (“OWS”). The author’s intent is to provide a context for supporting the “courageous conversations” (theme of the Oregon Mediation Association Conference) of OWS by mediation and change management experts. The following was written a month after the Oregon Mediation Association speech and reflects comments made to the author to elaborate on the mediating modalities that might be useful to both OWS and public officials. The request by the Editor-in-Chief of the *Cardozo Journal of Conflict Resolution* to expand on the original speech for publication provided the opportunity to incorporate these points as noted in the concluding pages.

COURAGEOUS CONVERSATIONS

At 11:30 a.m., on the 17th day of December 2010, 26-year-old Mohammed Bouazizi, an impoverished high school graduate, poured gasoline on himself in front of the provincial headquarters where he was denied redress for the confiscation by the police of his unlicensed vegetable cart. Twenty-eight days later, the 23-year-old regime of dictator Zine El Abidine Ben Ali collapsed, so great

* Founder and President: San Francisco Community Boards, first neighborhood and school mediation program [1976-1998] and Partners for Democratic Change, an international organization of 20 independent national centers dedicated to change and conflict management [1989-2010]. Mr. Shonholtz lectured and wrote extensively on the theory and application of mediating processes in the U.S. and abroad. He was on several editorial boards and was a Member of the Council on Foreign Relations.

was the sound of Mohammed's burnt voice to the citizens of Tunisia. Mohammed ignited a courageous conversation in one of the Middle East's worst authoritarian societies and galvanized a nation out of lethargy into direct political action.¹

Was Mohammed's an act of desperation or a statement needing to be heard that only flames could enunciate? If his was a personal grievance, but others took it as their grievance then for them was his immolation a courageous conversation about what they knew he meant? And, what was Mohammed's act to them: the voice of, the speaker for, immediate change; Mohammed lit the light for change and, like tinder brush of oppression dried under the heel of despotism, that light combusted, spreading like a conflagration across the Middle East. Change is about the resolute actor(s) and propitious timing.

Not all courageous conversations have begun with such drastic, horrific beginning points. Gandhi walked to the sea in a march against the colonial salt tax, breaking the back of the British lion. Martin Luther King, Jr. and Freedom Riders were beaten and killed for their courageous, resolute effort to respect the human dignity of others. Courageous conversations always invoke risk and danger; otherwise, they are not courageous.

Of the three women who received this year's Nobel Peace Prize, all of them are initiators of courageous conversations. One, Tawakul Karman, is a close friend of Nadwa Al-Dawsari, the Director of the Partners-Yemeni Center.² Nadwa describes Tawakul as a liberal Islamist voice for democracy in Yemen, resolute in her intentions to make peaceful change in Yemen, beginning with organizing media professionals against censorship and recently centered on sitting in a tent in Sana's Square to bear witness to the deaths and injuries of democracy protesters. Tawakul seeks in her dedicated work to create "space" to advocate for free speech and change within the context of building democracy and human dignity in her country.³

¹ Rania Abouzeid, *Bouazizi: The Man Who Set Himself and Tunisia on Fire*, TIME MAG. (Jan. 1, 2011), available at <http://www.time.com/time/magazine/article/0,9171,2044723,00.html>.

² Partners for Democratic Change, *Partners-Yemen Center Director Speaks at Carnegie Endowment for International Peace*, <http://www.partnersglobal.org/news/partners-yemen-center-director-speaks-at-carnegie-endowment-for-international-peace> (last visited Jan. 12, 2012).

³ Summar Shammakhi, *Women in the 2011 Revolutions: Tawakul Karman*, MUSLIMAH MEDIA WATCH (Dec. 26, 2011), <http://www.patheos.com/blogs/mmw/2011/12/women-in-the-2011-revolutions-tawakul-karman/>.

COURAGEOUS CONVERSATIONS ARE ABOUT CHANGE

What is the precondition for a courageous conversation? A resolute character or persons of obstinate intent. The effort is courageous because it is fraught with danger, risk, penalties and often death. When repression is great the courage of those engaged in change is heroic, itself a synonym for courageous.

Not all courageous conversations are heroic, but they are always about change. When a conversation becomes a movement for change, which reflects broad discontent, then the conditions for change become ever more possible. The Arab Spring in every country is a movement. Solidarity's uprising against Polish communism in 1989 was the catalyst for the Central and Eastern European democracy movement of the 1990's.⁴

*What do past and present courageous conversations
have to do with us now?*

All of us here, everyone in the Mediation Association are trained to, and most often predisposed toward, facilitating change, creating a platform for change, or promoting the listening channels for change. We are rarely the resolute character or persons with obstinate intent seeking change.

Yet, the heroic actor and resolute characters create the opportunity for the exercise of *our* values, work and expertise. We have a critical, essential, and invaluable role in making change peaceful, effective and relevant.

When Solidarity in 1990 took over the Polish government, creating the first free government in Poland since 1938, tenacious, resolute, and obstinate people and their leaders transformed their 10-year struggle against communism into a duly elected democratic government. In the first negotiation training for the Presidium of Solidarity Labor, the political leadership of Poland, in March 1991, Partners for Democratic Change encountered a challenge. Why, asked the 30 labor leaders in the five-day residential training, did they need to be trained in negotiation skills when they had just negotiated the communists out of government? The training came

⁴ AMOS YODER, COMMUNISM IN TRANSITION: THE END OF THE SOVIET EMPIRES 88-94 (Taylor & Francis eds., 1993).

to a halt. Over piwo⁵ and hours of listening, the deeper reasons for their participation in the training came forth. The quality of life issues that they had fought for against the communists were still with them against their own Solidarity, elected, democratic government: health, environment, wages, schools, etc., were still present in everyday life. Oppression was gone but the repression of everyday life was not. They wanted change. They knew and had the tools for negotiating with an enemy—the communist party—but they did not have the psychology, skills or methods for negotiating with their democratic friends in government. They needed us. Their courageous conversations over a 10-year period punctuated with much pain and suffering, set the platform for Partners' Center, training programs, and ultimately training over 1000 wage negotiators throughout Poland.⁶

Change is about engaging the “other” in a manner that provokes something new. Too often violence is the provoking agent. Yet violence, as we know from our professional work, is the highest level of “ratcheting up” legitimate concerns, as all other softer methods have often failed. The *sine qua non* of change is not violence; it is the steady, unyielding perseverance of socially righteous goals.

*Now in our own country a courageous conversation
is taking place.*

Occupy Wall Street is a courageous conversation. It does not, as yet, require heroism, but it does require resolute actors, an inclusion of the “other” and righteous goals.

While the “Tea Party” was a challenge to Republican mainstream politics, OWS challenges the very economic foundation of the nation by asking questions about social justice, equity, and whether this and the next generation can have and secure lives better than their parents' generation, the essence of the American work ethic and dream. The politics of an economy based on quarterly returns, short-term goals, and immediate gratification—forging policies for today without regard for its consequences tomorrow—is under severe scrutiny, if not assault. From Portland,

⁵ An alcoholic beverage.

⁶ RAYMOND SHONHOLTZ, CONSTRUCTIVE RESPONSES TO CONFLICT IN EMERGING DEMOCRACIES: Paper for UNDP Development Conference, Romania (2001), available at <http://www.partnersglobal.org/resources/article-archive/CONSTRUCTIVE%20RESPONSES%20TO%20CONFLICT%20IN%20EMERGING%20DEMOCRACIES.pdf/view>.

Oregon, to Portland, Maine, a movement is shaping up that transcends politics and short-sighted policies, and which seeks to return the nation to a vision of social and economic justice and equitable sharing in the body politic.⁷ These are righteous goals.

There is a critical dimension in the OWS movement rare in American history: “Millennials,” that unique group born in the 1980’s and 1990’s, who see America from a perspective different than any similar American age group. Many lived, were schooled, and shared America’s post-1980’s diversity of culture and education. They understand that conversation means listening, speaking, participating, inclusion, and shared responsibility. They are suspicious of decision-makers, but not transparent decision-making. They resist hierarchy, seeking social networking as some variant of order. They have ethics, social-networking skills, and some organizational experience. Sounds like the values of America’s mediating profession, which itself started like a progressive effort for opening the calcified structures of institutional justice.⁸ Millennials have many of the values of the “mediating movement” that began over 35 years ago.

In contrast to the Tea Party, which became political quickly and party-oriented, the OWS movement is working hard not to move in this direction. “We are not going to make demands. We are not going to become a political party. The second we start making demands, we start splintering,” said Sonia Silbert, an activist in Occupy DC.⁹ The very fact that the OWS focus is unfocused on specific politics and more on the economic conditions that make for the politics speaks to the search that is going on for a broad, meaningful change not immediately in the lives of citizens, but in the long term direction of the country.

In addition to being resolute and having righteous goals, OWS needs to value and express the full legitimization of the “other,” clearly avoiding de-humanization and demonization of those that are the subject of change. Gandhi’s and Martin Luther King, Jr.’s greatest allies were those who were “on the other side,”¹⁰ yet were

⁷ Jason Zweig, *Why Bankers Should Be Grateful for Occupy Wall Street*, WALL ST. J. (Nov. 26, 2011), available at <http://online.wsj.com/article/SB10001424052970203764804577060062028463068.html>.

⁸ Scott Keeler and Paul Taylor, *The Millennials*, PEW RES. CENTER (Dec.11, 2009), available at <http://pewresearch.org/pubs/1437/millennials-profile>.

⁹ Andrew Grossman, *Spreading Protests Yet to Jell*, WALL ST. J. (Oct. 17, 2011), available at <http://online.wsj.com/article/SB10001424052970204479504576635050542416050.html>.

¹⁰ BLUE MOUNTAIN ARTS COLLECTION, *PEACE: THE WORDS AND INSPIRATION OF MAHATMA GANDHI* (2007).

not shamed for it or delegitimated because of it. OWS moral and organizational strength lies in full inclusion, challenging efforts at creating enemies. Here, we can be most helpful by values, training, and experience.

To be successful, OWS will have to “link-out”: they will have to move into concentric directions reaching those who feel a common level of dissatisfaction and deep concern for the national well being. This is not a party-like activity or some opportunity for party co-option. Rather, it is more like a coming convention on common values, directions, and economic opportunity at the local to national level. The effort not to be defined bespeaks the intention not to be “something” to some established political order.

While it is difficult in America’s “do-oriented” culture to motivate from a negative, the OWS movement would probably agree with the inscription on the east side of the Oregon Capitol’s building: “A free state is formed and is maintained by the voluntary union of the whole people joined together under the same body of laws for the common welfare and sharing of benefits justly apportioned.”¹¹

To make meaning out of broad inclusion and participation calls for the skills of those who know how to build coalitions, consensus, and shared vision, purpose, and plans; in short, for you, people with negotiating, communication, conciliation, and consensus skills. This is made the easier for the mediating movement, as, contrary to pop-pundits and the like, OWS is neither right nor left, Republican, Independent or Democratic, rather, they are the low, middle and working classes.¹²

The OWS movement needs the mediating movement, as the latter can articulate the platform of a “mediating future”¹³ that explores the needs of the former. While they frame a discourse, who do they want to talk with? Here, an assessment mapping of potential “stakeholders,” allies, and participants, especially at the local level, would:

- Solidify intentions
- Explore the reality of a shared vision
- Identify those needed to be included to make for an expanded and inclusive conversation

¹¹ Inscription on the east side of the Oregon State Capitol Building.

¹² *Occupy Wall Street Demographics*, WIKIPEDIA, http://en.wikipedia.org/wiki/Occupy_Wall_Street#Demographics (last visited Jan. 14, 2012).

¹³ Raymond Shonholtz, *The Mediating Future*, 522 ANNALS AM. ACAD. POL. & SOC. SCI. 139, 139-50 (1997).

- Shape the contours of options and issues
- Identify areas where more knowledge is needed
- Galvanize commitment to specific policies and actions
- Articulate positive and non-enemy rhetoric

*What if OWS should be offered a “negotiating table”?
What would they say or do?*

In answer to this question lies the larger engagement and transformative challenge that OWS offers mediators, negotiators, facilitators, cooperative planners, trainers, and communicators. The mediating movement needs to open a courageous conversation with OWS, offering all that we have within the context of the ethnics of Millennials. What might we offer?

Mutual inclusion within the values of the OWS, namely that all of us are part of the coming storm of discontent and want to exercise the responsibilities of citizenship. *Promoting*, teaching, and offering skills in listening and speaking. *Experience* in collaborative settings, including:

- Ground rules for non-judgmental listening and communicating;
- Issues that concern one side or party are in reality issues for the whole group to address and problem-solve;
- Clarifying decision-making processes before issues are discussed or decisions required;
- Clarifying what is meant by transparency;
- Practicing how to design and use a negotiating table;
- Learning how to address issues raised by “spoilers”;
- And the many other methods, skills and processes rich within our mediating world experience.

CONCRETE STEPS

Nearly all occupied areas are now under internal and external threat. Internally, there are fundamental issues of security, health, and social interactions. In any large encampment rules need to be made regarding how security is maintained for occupiers, health conditions observed, and social engagement made positive. Here, those with mediation and consensus building skills can be very useful.

Further, externally, occupiers need to reach out to public authorities, ensuring liaison with police, health, and environmental agencies and facilities, ensuring that local laws are respected and mutually taken into account. Again, this is a good area for the application of negotiation and cooperative planning skills available within the mediation movement.

While having learnt a great deal from my 12 years as founder and President of the Community Board Program in San Francisco, one of the primary lessons concerns the critical importance of local capacity building through training and education as a vehicle for change. The trainers in this effort were the beneficiaries of dispute resolution themselves and neighbors living in the very locales that would benefit most directly from a new system of dispute management that put trained citizens as dispute interveners of first resort, not police, courts or the institutional system.

Moreover, sharing skills through dialogue, education, and training is both bridge-building and confidence-building, leveling the field between provider and recipient, which is critical to the alliance that is possible between OWS and the mediation movement.

Further, if there is one lesson that is overarching from my founding and leading Partners for Democratic Change over 20 years it is the critical importance of building structures that are vessels for knowledge dissemination, aggregation, and improvement. I can see a “mediating future” where the differences between people, groups, and policy-makers are themselves courageous conversations enjoying consensus-building, participatory platforms. This might create a continuity of effort new to the political discourse, opening the pathway for shared expertise in consensus-building on issues that not only achieve broad agreement, but stronger working relationships for change.

The OWS movement is awakening the country to issues that transcend the quarterly bottom line, political achievement by scorecard, and the empty national rhetoric of bi-partisanship. They *are* the courageous conversation at this moment and worthy of support for our, and their, long term civic, personal, and national self-interest and well being.

In classic Coser analysis,¹⁴ OWS thinkers and leaders have much to plan and work through. If OWS is a brand that is viral, a

¹⁴ See generally LEWIS COSER, *THE FUNCTIONS OF SOCIAL CONFLICT: AN EXAMINATION OF THE CONCEPT OF SOCIAL CONFLICT AND ITS USE IN EMPIRICAL SOCIOLOGICAL RESEARCH* (1964).

new cultural dimension that addresses how capitalism's rewards are measured and paid for, then the serious OWS need to consider:

- How to negotiate intra-OWS factions and the role of factions in enhancing the message and movement of OWS locally and, perhaps, globally, if broad unity is a goal.
- How to legitimate the role of OWS interlocutor(s) or spokesperson(s) and their scope of authority, and over what specific points.

While there are many other critical issues to address, these two need immediate attention, if significant fractures are to be prevented, attended to, and made, possibly, inclusive.

New mediating modalities or mechanisms can minimize the difficulty of these hurdles, strengthening the message and expanding the base of acceptance. To start, the playing field for OWS participants needs to be more even so that the skill level of participants and "decision-making" is more evenly understood, shared and experienced. Ensuring a more common and accepted language and approach by participants can be achieved in many ways, but the most expeditious is likely to be mediation trainers providing broad, shared communication, facilitation, and cooperation skill-training sessions to OWS participants and nascent leaders. These sessions need not be long, but can achieve a great deal in furthering OWS aspirations.

First, broad skill training as a participatory endeavor will create a common platform of communication methods, language and skills that will serve to reduce confusion and promote clarity regarding issues and transparency regarding differences.¹⁵

Second, the application of a facilitation modality, whereby participants enable a facilitator to externalize their aspirations, aggregating common areas of concern, identify points of difference, and secure agreements for how to make decisions and proceed (as well as noting issues that all agree will be "parked" awaiting their decision-making turn in the issues-queue) would greatly expedite the development of the OWS movement.

Mediators and facilitators in every city can offer their services in both the training and facilitation roles, making a strong link with OWS while promoting peaceful internal OWS development and external relationships.

¹⁵ Raymond Shonholtz, *Conflict Management Training: A Transformative Vehicle for Transitional Democracies*, 2. INT'L NEGOT. J. 437, 437-50 (1997).

The outcome of a facilitated practice is likely to lead every OWS initiative into specific points of civic engagement, whether to link up with organizations, such as unions, social clubs, political groups and the like, and how to initiate municipal/governmental encounters. As regards the latter, the facilitated process can also assist in fulfilling the second major hurdle: deciding how to empower spokespersons for the local OWS movement and their scope of communication/negotiation authority. At some critical point, municipal/governmental authorities need to be brought into the process. Ideally, an OWS-initiated overture would generate a government response. This requires clarity by the local OWS concerning who speaks for them and on what issues. Assuming the facilitated process can fulfill this need, the next issue is what is the appropriate response of government?

There are principles for effective work between government and citizens and groups to address critical issues.¹⁶ These tested measures deserve close attention by government officials interested in supporting First Amendment rights of OWS, engaging OWS in issues, and reducing the propensity to misunderstand, miscommunicate, demonize or exacerbate points of contact between government authorities and those undertaking peaceful civic initiative.

Even with these sound principles in hand, government is best when it utilizes mediating and facilitating modalities, providing, again, another venue for the application of mediation concepts and practice.

To date, it is unclear how successful either OWS has been in utilizing existing expertise within their communities to elevate and even the skill level of participation, make transparent decision-making processes, or provide a model for initiating dialogue with government. Likewise, it is unclear how successful government has been in moving from a “law and order” model—seeking to maintain the peaceful character of OWS movement—to one that moves to transparent, effective dialogue with agreed upon conclusions.

For example, every municipality has to consider how to deal with security, sanitation, and maintenance of rights where there is an active OWS movement. Certainly, this is a shared responsibility with the OWS movement itself, as it has a civic responsibility to care about these issues within their selected “occupy” encamp-

¹⁶ Terry Amsler, *10 Principles of Local Government Public Engagement*, INSTITUTE FOR LOCAL GOVERNMENT, <http://www.ca-ilg.org/publicengagementprinciples> (last visited Jan. 14, 2012).

ment. These mutual concerns provide a unique opportunity for dialogue and collaboration.

Contrary to some popular perceptions, those in the mediation movement are aware that conflict can serve to unify perceived differences: it can bind antagonists, it can make transparent the interests of all participants, and it can establish and maintain a new balance of power. To achieve these outcomes in the most peaceful and effective manner possible necessitates mediating modalities, trust in the value of participation, and embracing the skills and expertise that abound in this area.¹⁷

The OWS movement and the mediating movement together can achieve much. Will OWS reach out or accept mediators, trainers and facilitators? Maybe not, as many do not know what we have to offer. As Steve Jobs so eloquently responded when asked if anyone wanted what he sought to produce: “People don’t know what they want until you show it to them.”¹⁸

Our job in this decade as participants in the mediation movement is to let them know “what it is” and to build the bridges that will solidify a discourse so desperately needed for the well being of America.

¹⁷ Raymond Shonholtz, *Neighborhood Justice Systems: Work, Structure, and Guiding Principles*, 5 *MEDIATION QUARTERLY* 3, 13-14 (Sept. 1984).

¹⁸ WALTER ISAACSON, *STEVE JOBS* 567 (2011).

