

## CONFLICT OF VALUES SUBJECT TO MEDIATION PROCEEDINGS

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**Abstract.** The aim of this study was to reflect scientifically on the possibility of resolving value conflicts through mediation proceedings and on methods of resolving them. First, the relationship between law and values was discussed, stating that law and values form an interconnected system of vessels. When it comes to conflict resolution through mediation, law and values provide a mediator with a normative-axiological framework to communicate with the conflicting parties and assist in creating adequate solutions. A deeper analysis of the nature of value conflicts led to an observation that they are caused by divergent value systems upheld by the people involved, but that the difference in preferred values alone does not necessarily lead to conflict. A factor that is a catalyst for value conflicts is a determined imposition of one's own values on others, without tolerance towards the others' axiology. The final section of the article emphasises that mediation is a legal and values-based instrument, but at the same time it offers an advantage of minimally formalised proceedings. This is why mediation provides an advantageous space for resolving values conflicts, when led by a professional mediator. Based on the assumption that values are non-negotiable, three possible ways for a mediator to intervene in a values conflict were identified, i.e. avoiding defining the problem in terms of values, seeking an overarching value, reframing the parties' perception of the object of the dispute and of the opposing party through the mediator's sharing their own experience of values.

**Keywords:** mediation; conflict; value conflict; values; law

### INTRODUCTION

Mediation is a conflict resolution instrument that has its place in the international, European as well as Polish legal order. It is a practical method of preventing and managing conflicts, with emphasis on their amicable resolution. This is because in its essence mediation safeguards the autonomy and independence of the parties to find out and choose how to resolve conflicts with due care for the confidentiality of the proceedings. Thus, mediation creates both opportunities for the disputing parties and the mediator, but also challenges for the way mediation proceedings are arranged and conducted. Therefore, mediation often leads to more satisfactory solutions for both parties than a court judgment.

At the core of conflict are usually interests, resources, needs, information, relationships or values. One particular type of conflict that is difficult, if not impossible, to resolve is conflict over values. Can such a conflict be resolved through mediation proceedings? How to mediate in such cases? In order to answer these questions, we first discuss the relationship between values and law. Then we move to discuss the defining characteristics of conflict, including conflict of values, and examples of ways to resolve or mitigate it.

## 1. VALUES AND LAW

The notion of “value” as an axiological concept is considered contentious and even questionable [Ingarden 1970, 220-57]. It is impossible to give one exhaustive definition of value. At best, we can specify the elements that make it up. Thus, on the one hand, people experience values as their ideas of value and as a perceived value of objects. The idea of value should be understood here as a person’s authentic perception of the importance of a value. Whereas, under the second sense, people experience values as factual, and this is why they have meaning for them. They are value qualities assigned by humans to objects [Kość 1998, 170]. At the same time, the notion “value” is used in a variety of contexts and discourses, which makes the concept vague owing to its highly diversified meanings [Kamiński 1983, 105].<sup>1</sup> Some consider value to be “a quality or characteristic (or set of characteristics) of something, and [...] x is a value as long as x displays valuable characteristics (qualities)” [ibid., 110].<sup>2</sup> Others emphasise that value is that which “is valuable or makes something valuable” [Stępień 1975, 54], which is “worthy of desire, which is attributable to positive experiences and hence is the goal of human aspirations” [Łobocki 1993, 125] These are only selected examples to illustrate difficulties in delineating one, unambiguous definition of value, which is a virtually impossible endeavour due to highly divergent ways of understanding this complex construct.

Defining “values” in the legal context appears to be at least as difficult as in philosophy and anthropology. They can be located within the legal

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<sup>1</sup> In his view, the notion of value has its anthropological formulation. Scientific reflection on value as an anthropological category can contribute to its general explication. Furthermore, people are becoming increasingly aware that the hierarchy of values shaped according to the scientific-technicist-economic model tend to fail in personal life.

<sup>2</sup> Complementing his ontological, fundamental definition of value, Stanisław Kamiński distinguishes between transcendental and categorical values. The first is the quality of being as being in relation to the personal acts of the Creator. The second is the quality of being in a particular category vested in it when the being “realises its proper form, that is, its nature, so it marks an actual realisation of properties that constitute the *definiens* of the essence of the thing [...]” [Kamiński 1983, 111].

system itself, but they can fall outside it, as well. Indeed, they can be related to law itself (e.g. regulatory clarity, certainty of law), but they can equally well relate to the values that law should serve (e.g. security of the state and citizens, protection of the public interest). Finally, one can speak of values as an assessment instrument of applicable law [Blicharz 2022, 23]. Thus, on the one hand, following the functional analysis of the legal norm, one can speak of the instrumental value of law through its reference to the world of values outside the legal normative system. Under this view, law has as a relational value, influenced by other axiological systems (morality, religion, economics, technology etc.). Law is instrumental in actuating values, and it shapes the framework of socially recognised values. On the other hand, law has an intrinsic (autonomous) value due to its status of a framework of instruments and measures – law as a value in itself [Barankiewicz 2004, 54-55].

That values exist is a fact. In order to live, be themselves and develop, people need values. They need them to form their attitudes to life, to judge the attitudes and actions of others and to build social relationships. Through values, people “look at” other people as well as at themselves. Values are a focal point for human thoughts, aspirations and actions. Ultimately, it is in the human being as being *per se* that value becomes a person. All values are therefore values because they are something for the human person and for the sake of the human person [Tischner 2001, 13-14].

Becoming a member of society one discovers a certain value system in it. Law is a regulator of social relations and is based on the values recognised by society.<sup>3</sup> Thus, whoever makes and applies law should be guided by values [Larenz and Canaris 1995, 192-95]. Through the establishment of legal norms societies can equip their axiologies with direct binding force to assess behaviours and motivate actions. This is why each society needs to bind the framework of values within the framework of law. As observed by A. Kość, “the connection between law and social axiology is so tight that one can speak of the reception of the social axiology through law” [Kość 1998, 176]. Values and axiological principles that are part of legal systems share the binding force of these systems. The role of law in relation to socially important values is, among other things, to protect them in and for society, which law does with regard to the behaviour of the addressees of legal norms. This function manifests itself through the formal organization of law which formally codifies positive values, and by doing so, it constructs means of assessment for relationships and behaviours within the social sphere. As a result, ways of behaviour that seem worthy of recognition from the point

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<sup>3</sup> The social order of values include basic universal human values, values and value principles relating to human relations, e.g. honesty, political values that form the basis for creating and maintaining the political and state order, personal and community values relevant to social life e.g. freedom of conscience, freedom of assembly [Kość 1998, 173-74].

of view of the values embodied in the legal norms are judged to be lawful, while in the opposite situations, they are judged to be unlawful. The law thus delineates the areas of legally permissible and impermissible behaviour, and becomes the guarantor of the social order of values. Related to this role is the protective function of law, which consists in acting against violations of values and preventing such behaviours with appropriate measures [Idem 2008, 215].

Law also fulfils a very important function in resolving conflicts of interest, which always represent conflicts of values experienced by the parties. It will be a success of the legal framework if it is able to develop an effective and amicable resolution in a situation of value conflicts between the parties.<sup>4</sup> The institution that serves this purpose is mediation, on condition it is properly regulated by law and based on values, because law and values are a system of communicating vessels. Thus, in Polish law we have civil,<sup>5</sup> criminal<sup>6</sup> and administrative<sup>7</sup> mediation regulations. The key types of values underpinning the institution of mediation include social values of a cultural nature that are the heritage of Western tradition: European values (e.g. human dignity, freedom, equality, respect for personal beliefs), the values

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<sup>4</sup> In a conflict of individual or community values that cannot be resolved by compromise, but only by sacrificing one conflicting value, a “weighing up” of certain incommensurable values is carried out. For more on this topic, see: Potrzyszcz 2005, 107-22; Blicharz 2022, 32-42.

<sup>5</sup> The following regulations apply in civil mediation: Act of 23 April 1964, the Civil Code (Journal of Laws of 2019, item 1145); Act of 17 November 1964, the Code of Civil Procedure (Journal of Laws 2019, item 1460); Act of 28 July 2005 on court costs in civil proceedings (Journal of Laws of 2020, item 755); Act of 27 July 2001 on the system of common courts (Journal of Laws of 2020, item 365); Regulation of the Minister of Justice of 20 June 2016 on the amount of remuneration and reimbursable expenses of a mediator in civil proceedings (Journal of Laws item 921); Regulation of the Minister of Justice of 20 January 2016 on the registry of permanent mediators (Journal of Laws item 122); Regulation of the Minister of Justice of 18 June 2019 on rules of procedure of public courts (Journal of Laws item 1141).

<sup>6</sup> The following regulations apply in criminal (penal) mediation: Act of 6 June 1997, the Penal Code (Journal of Laws of 2019, item 1950); Act of 6 June 1997, the Code of Criminal Procedure (Journal of Laws 2020, items 30, 413, 568); Act of 6 June 1997, the Executive Penal Code (Journal of Laws of 2020, item 523); Regulation of the Minister of Justice on mediation proceedings in criminal proceedings (Journal of Laws of 2015, item 716); Regulation of the Minister of Justice of 18 June 2003 on the amount and manner of calculation of State Treasury expenses in criminal proceedings (Journal of Laws 2013, item 663).

<sup>7</sup> The following regulations apply in administrative mediation: Act of 14 June 1960 Code of Administrative Procedure (Journal of Laws of 2020, item 256); Regulation of the Minister of Internal Affairs and Administration of 2 June 2017 on the amount of remuneration and reimbursable expenses of a mediator in administrative court proceedings (Journal of Laws item 1087); Regulation of the Minister of Internal Affairs and Administration of 2 June 2017 on the amount of remuneration and reimbursable expenses of a mediator in administrative court proceedings (Journal of Laws item 1088).

contained in the Constitution of the Republic of Poland<sup>8</sup> (e.g. good, truth, beauty) and the particular branch of law regulating the institution of mediation. When it comes to conflict resolution in mediation proceedings, it is the legal system and values that set the normative-axiological framework for the mediator to communicate with the conflicting parties and assist in developing effective solutions.

## 2. CONFLICT OF VALUES

Human beings, in order to be themselves, live and develop, need *ethos*. They live by values and for values. There are unchanging values – objective and universal – whose essence and normative function are not determined by subjective human predilection or the socio-cultural context; but there also changing values, dependent on socio-cultural factors and on the free, spontaneous perception of individuals [Mazurek 2008, 65]. Humans are “entangled” in the web of values, which they create throughout lifetime, taking decisions and making choices. When a person is in conflict with others, disagrees or argues with them, this person becomes an opponent to the others and their views. Hence, this person’s axiology is at tangent with that of the others and the person’s value system “disintegrates.” So what is conflict?

We speak of conflict when two (or more) people or groups perceive irreconcilable differences in interests, inability to satisfy important needs and/or values or to gain important resources, and, consequently, they take action to alter the status quo.<sup>9</sup> Conflict is – in most general terms – a divergence of interests or the belief of the parties that such a divergence exists, and hence, that the interests of either party cannot be realised equitably.<sup>10</sup> To be more

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<sup>8</sup> Constitution of the Republic of Poland of 2 April 1997, Journal of Laws No. 78, item 483 as amended. See Piechowiak 2020.

<sup>9</sup> An “interest” should be understood as “a need that is revealed in a particular social structure and recognised individually, as long as we assume that certain conscious behaviours of individuals or social groups are always underpinned by some needs recognised by these actors” [Groszyk and Korybski 2006, 20]. On the other hand, “need” is defined as “an aspiration of a given social actor to achieve or restore a state of equilibrium in a given social environment; consequently, a state of equilibrium can be defined as a specific framework of social relations in which the position occupied by a given actor is conducive to both effective functioning and development of the environment; also, it unveils the actor’s developmental opportunities in the environment. When it arises, a need triggers the pursuit towards satisfaction, while interest – as a need that has been consciously recognised – directs these pursuits. Interest determines the type, intensity and form of behaviour necessary to achieve such goods/benefits that can enable the social actor’s survival and/or prosperity” [ibid.].

<sup>10</sup> The concept of conflict can be approached from three angles: psychological – which concerns the psychological tension between the parties to an antagonistic relationship; behavioural – which addresses the divergent, contradictory actions of the parties; and social

precise, conflict is “an arrangement of opposing behaviours of at least two social actors (individuals, groups or organisations), each pursuing their own goals (interests) and facing counteraction from the other participants in the conflict” [Korybski 1993, 20].<sup>11</sup> A conflict emerges when “a person realises that they have a choice between at least two different behavioural trajectories, different goals to achieve, or two different needs to satisfy” [Płużek 1991, 91].

Conflicts and the resulting disputes are a regular feature of social life.<sup>12</sup> They are dynamic and temporal in nature. Conflict is a natural process even in well-functioning relationships. If people meet and communicate, sooner or later, as trust in others increases, differences in values, opinions, habits, tastes, interests etc. must surface. This situation is a natural consequence of the fact that people differ. For example, they have different interests or uphold different values.<sup>13</sup>

Conflicts are a specific type of relationship and are inevitable; hence it is both impossible and even inexpedient to eliminate them. Neither should they be held back, but managed, instead, as they can be instrumental in reformulation of the rules hitherto in force between the parties. In this way, new relational qualities can emerge, and thus, conflict becomes a developmental factor. Positive consequences of conflict include motivation increase as people need to raise their level of commitment; innovation drive since new solutions are sought; a signal of dysfunctionality that may indicate that certain areas need enhancement; an increase in knowledge about oneself and the other party, about desires, goals, value systems and emotions; an increase in trust and a sense of understanding which may make it easier to overcome problems in the future and lead to a renewed sense of justice.<sup>14</sup> A well-managed conflict can contribute to positive change and encourage better self-knowledge [Cybulko 2009, 66-67; Suchanek 2018, 130-31].

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– which marks an attempt to combine the two previous aspects [Mucha 2011, 342-44; Kalisz 2007, 13].

<sup>11</sup> One of the definitions of conflict encountered in the literature on mediation is that of J. Boulding, as cited by Ch. Moore. He discusses conflict in terms of a competition between people or groups, that is a situation in which a minimum of two related parties argue over scarce resources, or they pursue interests that are, or appear to be, irreconcilable. In consequence, the parties take action to change the problematic situation [Cybulko 2009].

<sup>12</sup> A dispute is “a socially revealed conflict of specific social actors (individuals, groups or their organisations), involving the belief that either party has violated some rights of the other party” [Korybski 1993, 26]. In this study, these terms are used interchangeably.

<sup>13</sup> For more on this topic, see: Balawajder 1998.

<sup>14</sup> Conflicts also have negative consequences since they puts the participants’ vital interests at risk, which is a source of negative emotions. These can result in broken human bonds, suspicion, mistrust or withering cooperation.

When two or more parties are interdependent, a potential conflict situation arises. Whether this situation develops into a dispute depends on the behaviour of a party or parties. Values play a vital role in such circumstances since they have multiple functions in the process of individual and social human development. Above all, they regulate the satisfaction of needs, which are expressions of what is important for the life and proper functioning of an individual. Values define needs and determine how they are satisfied. Furthermore, values enable an individual to decide which needs are to be satisfied and in what order. It is also important to note that values influence the choice of goals and the ways in which these are pursued. They affect the individual's self-assessment, e.g. the assessment of one's own appearance, abilities or relationships. Finally, they underlie the assessment of the outcomes of one's own actions and, consequently, satisfaction or dissatisfaction with the achievements. In other words: As you think, so you act. As an autonomous subject, the human person makes their own choice concerning values. Each person chooses what is important for them, what is and worth their effort and commitment, or even sacrifice – what constitutes a worthy goal. The value system an individual adopts influences their personality and behaviour, including the way they respond to conflict and methods of its resolution.<sup>15</sup>

Effective conflict management demands knowledge of the causes of the conflict. Among typologies of conflict there is the wheel of conflict proposed by Ch. Moore. This construct helps a mediator to carry out a conflict diagnosis, which consists in identification of discrepancies between the parties in any of the five areas demarcated in the wheel (structure, emotions, history, communication, values). Relying on the diagnosis, a mediator can take adequate measures to increase the chance of effective conflict resolution. The wheel is based on an underlying assumption that, at its outbreak, conflicts are more less similar to each other, and when a mediator learns about its causes, they can locate its roots in one of the five areas [Moore 2003, 76-77]. Over time, as conflict develops and escalates, the areas of contention seem to overlap, and the conflicting factors start acting simultaneously. It is because a single, main source of conflict can be reinforced by others [Cybulko 2009, 56]. The course of a conflict largely depends on which of its components play a dominant role. For example, unresolved relationships, values, or history conflicts are conducive to increased hostility and can reinforce each other. In order to resolve the conflict, it is necessary to understand the structure of the situation and the interests of the people involved, i.e. to get to the roots of the conflict. Otherwise, the conflicting parties will tend to fight each other instead of seeking resolution.

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<sup>15</sup> For more on the issue of the value-personality interdependence, see e.g.: Oleś 1989; Oleś 2009.

One of the types of conflict listed in the wheel of conflict by Ch. Moore is a conflict of values. It is driven by the divergent value systems of the disputants. A mere difference in preferred values does not necessarily lead to conflict. A factor that fuels conflict is the strong display of one's own values without due tolerance towards the values of another stakeholder. Lack of tolerance and a lack of respect for the values recognised by others, further aggravated by rejecting attempts to seek solutions that are acceptable to all parties regardless of their value systems lead to higher antagonism, and can hinder or block cooperation between the parties.

Conflict can concern core values, such as existential values (abortion, euthanasia), as well as peripheral values, i.e. so-called every day, practical values (e.g. the vulgar joke told). One needs to keep in mind that values are never subject to negotiation. This is because they form the foundation of personal identity. People experience immense discomfort and distress when their values are threatened. Hence, they defend them very strongly, often by venturing a counterattack on opposing values.

### 3. OPPORTUNITIES AND SELECTED WAYS OF RESOLVING VALUE CONFLICTS IN MEDIATION

By its very nature, mediation is an art of working out an agreement between disputing parties. Legally speaking, mediation belongs to confidential proceedings (Article 183<sup>4</sup> of the Code of Civil Procedure). Its adequate course and procedure is guaranteed by a mediator who is impartial (Article 183<sup>3</sup> of the Code of Civil Procedure) towards the parties, neutral<sup>16</sup> towards the object of the dispute and independent, that is they are not subject to any external pressure or influence. The conduct of the mediation meeting rightly remains outside the area of standardisation. However, the law provides a formal basis for mediation proceedings to be conducted with due diligence and by a suitably prepared person. This is to ensure adequate guarantees concerning the mediator, and relevant to the parties. The settlement reached by the parties cannot be contrary to generally applicable law or the rules of social life. It cannot aim at circumventing the law, it must be comprehensible, and it cannot contain contradictions (Article 183<sup>14</sup> of the Code of Civil

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<sup>16</sup> Neutrality is not normative under the Civil Procedure Code; it is, nevertheless, acknowledged in the Mediation Standards (Standard II) alongside the principle of impartiality. See Standards for the Conduct of Mediation and the Conduct of a Mediator, enforced as of 26 June 2006 by the Social Council for Alternative Methods of Resolving Conflicts and Disputes under the Minister of Justice, <https://www.ms.gov.pl/pl/dzialalnosc/mediacje/publikacje-akty-prawne-statystyki/download,188,6.html> [accessed: 10.08.2022]. For more on the principles of mediation, see e.g.: Kalisz and Zienkiewicz 2014, 58-61; Dąbrowski 2019, 116-25.



Procedure). In contrast, the values incorporated into mediation proceedings influence the parties' emotions, behaviour, attitudes and decision-making, which motivates them to seek fair and just solutions. Therefore, they provide the foundation and space for the resolution of value conflicts by supporting the parties' dialogue, helping to analyse, understand and recognise each other's needs, which influences the final content of the settlement.

When conducting mediation, a mediator should consider the values that are crucial to the parties, representing particular legal, social, religious, state, ethnic or local contexts as well as personal beliefs. A mediator also needs to bear in mind that the course and the final outcome of the mediation is equally influenced by the values they recognise as participants in the proceedings. A mediator brings added value to the mediation proceedings, such as, among other things, the values they live and the views they hold. At the same time, all participants in mediation should keep in mind the universal values underlying constructive conflict resolution, and take their best effort to comply with them. Some of such fundamental principles include reciprocity (treat the other party as you would like to be treated yourself); equality (each person is equally entitled to just and respectful treatment, taking into account their own needs and the right to fundamental freedoms such as freedom of conscience); social community (belonging to a larger community, sharing basic norms and values); the right to be wrong (knowing that one's own judgement and that of others may be wrong); non-violence (renunciation of all coercive tactics by either party e.g. brutality or violence) [Bok 2002, 15-16 and 56-57].

Can mediation be conducted in abstraction from a coherent value system in which it is rooted? A mediator should use a values-based approach to ensure that the proceedings and their outcomes do not violate the principles of mediation. For example, identifying specific behaviour as "bullying" will require the parties to understand the value of equality and respect for human dignity. In a family dispute, introducing values into the dispute resolution process can make the dominant parent aware of the child's needs and rights, and the dominant husband aware of his wife's rights and needs. Even if rethinking or reflection does not take place, the mediation procedure will protect individuals or groups from worsening the situation. Introducing values to mediation proceedings can facilitate communication. They can help the parties demonstrate understanding towards the opposing party and recognise each other's needs and interests. This can empower the ultimate desired result of a fair settlement that satisfies all the participants, but it also leads to enhanced trust and renewed cooperation in the future.

Thus, adopted here is a view of mediation as an instrument that combines the legal system with the framework of values, and rests on a precondition that values are inherent in the proceedings. Also, it is assumed

that mediation is characterised by flexibility and gives its participants the possibility to retain control over the course of the proceedings. Hence, when properly designed and structured, when headed by a professional mediator as an active and creative consensus agent, mediation provides an adequate space for the resolution of value conflicts. Of course, as evidenced by mediation practice to date, not all value conflicts can be resolved, but the very fact that the parties enter into conversation will mark a success because, unlike court proceedings, it will create the parties' relationship and encourage communication between them. However, this raises the question of methods of value conflict resolution.

Firstly, it should be emphasised that the "quality of a mediator" largely determines the effectiveness of the final outcome of the proceedings, and not only the parties who have failed to deal with the conflict themselves. Above all, a mediator should create conditions conducive to consensus-building,<sup>17</sup> motivating the parties to work together. He should focus the mediation communication on problems, yet avoiding at all costs that these problems be formulated from the perspective of the conflicting values [Moore 2009, 76]. A simple example can help illustrate our argument: *After 10 years of marriage, the husband declares that he has become an atheist and he wishes to raise the children in the spirit of atheism, irrespective of their prior baptism under parental decision and consent. The wife, a person of deep faith, definitely refuses to accept this kind of marital settlement. She wants to protect the children from their father's influence at all costs. She is attempting to terminate his parental authority and is seeking a ban on contact. However, she recognises the marriage as indissoluble (her recognised value system is*

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<sup>17</sup> There are five basic styles of acting and responding to conflict, differing in their degree of cooperativeness and assertiveness. These are avoiding, accommodating, competing, compromising and collaborating. Avoiding means a way of ignoring a conflict and reacting to it with silence and passiveness – putting it off. The conflict then takes a covert form and neither party has a chance to have its needs met. Excessive conflict avoidance causes decision paralysis and provokes further conflicts. Accommodating is acting in accordance with the interests of the opposing party by giving up one's own objectives and positions. Underlying here is the fear of losing good relationships with others. When parties compete, they look at the conflict as a game to be won. Winning is a measure of achievement and success, while losing means failure, weakness and loss of prestige. Compromise and cooperation/collaboration are desirable behaviours in conflict resolution. Compromise is an attitude of finding a solution by partially giving up one's own needs when expecting adequate concessions from the partner. All those responding to conflict in a compromising manner assume that it is sometimes necessary to give up at least a little of one's own interests and show understanding for the interests of the other party. Finally, one of the most effective styles of responding to conflict is collaboration or cooperation. It involves a willingness to accept the goals of the other party to the dispute without giving up one's own goals. Therefore, a conflict becomes a problem to be solved together [Blake and Mouton 1964; Moore 2016, 162].

*Catholic, and Catholics do not divorce) and hence cannot file for divorce.* It seems that the core problem here is how to define the interests of either party [Ury 1998, 36-38] as regards their relationship and how to determine concrete actions whose implementation could provide a solid basis for substantive dialogue. It is also important for either party to become aware of what they themselves are feeling and of the other spouse's emotions, then to name these emotions and comprehend their causes. Only at the next stage of the proceedings will it be possible to discuss further co-parenting, focusing, for example, on establishing mutually acceptable forms of contact with the child or parental authority. Besides, it cannot be ruled out that there are needs behind the declared atheism and Catholicism which the parties do not explicitly talk about, and which are the main root of the ongoing dispute. Starting the mediation by talking about the parties' highest values, namely atheism and Catholicism, would rather intensify emotions and put a quick end to the proceedings. However, a conversation about the value systems of the parties to the dispute, covering reasons that led the husband to become an atheist and his understanding of the principles of Christian life, should not be ruled out at later stages of the proceedings. This is because values influence attitudes by becoming goals of the parties' aspirations and strongly motivate their pursuit.

Secondly, in resolving a conflict of values, a mediator may seek together with the disputing parties overarching goals with which all parties identify; a value higher than the one involved in the dispute – an overarching value or an absolute value that will unite the disputants and will be shared by them. Perhaps for the parties in the case study cited above, such an overriding value could be the well-being of the children or the good of the family.

Thirdly, it is crucial to emphasise that a mediator, as an actor in the mediation proceedings, should seek to reframe the parties' thinking about the subject matter of the dispute and about the opposing party. With this mindset, a mediator can find it easier to resolve value conflicts, particularly if the mediator shares with the parties their own experience of values, insights, examples and assessment of the nature of the conflict, communicating their own value system. It is a mistake to use cliché expressions like "please, reconcile!" Above all, it is necessary to build, through dialogue, a golden bridge that, despite disparities, at least to some extent connects the parties [Ury 1998, 126-27]. Furthermore, in view of the case study referred to above, it is also worth pointing out to the parties that, as parents, they need to reckon with an option of living together after the proceedings, and therefore, it seems worthwhile to ensure that this life be as harmonious as possible and evoke as little negative emotions and experiences as possible [Kalisz 2016, 166].

Moreover, it should be borne in mind that during the mediation proceedings, either party points to their own, subjective rationale based on their exclusively own interests (subjectivism). Thus, a mediator's task is to ensure that either party move to a more objective stance in their rationales. Either party needs to re-examine their own rationale and learn to acknowledge the leading motives, interests, facts determining the other party's position, and to take into account the values that are important to both. What is relevant is therefore not only the good and interest of the disputants, but also the social order of values. Thus, when resolving a conflict through mediation, the parties should reject a position of extreme subjectivism as well as extreme objectivism, as either thwarts agreement. Instead, it is vital to consider the socially important values shared by all the stakeholders.

### CONCLUSION

Conflicts of values are inherent to social life. To solve them, it is necessary to separate the people from the problem. The parties to a value conflict should be partners in the resolution process – they should resolve the conflict instead of engaging in power struggle. This requires getting to the roots of the conflict, trying to understand the structure of the situation and the interests of those involved. These actions in mediation proceedings are based on the foundation of a legal system and values.

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