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- Concepts
- Mediator's role
- Applying psychology to the mediation process

#### Managing the Psychology of Parties at a Mediation

# The Concepts

- Not about logic
- Emotions need to be acknowledged (not facts)
- Self-esteem is important
- Influence of values
- Parties need to be heard (not questioned)
- It's about the parties (not the mediator)
- No one wants to be in disputes



#### Managing the Psychology of Parties at a Mediation

# Emotions

- Conflict
  - emotional overtakes logic
  - Amygdala hijack "cannot think straight"
- Mediator
  - Identify target
  - something or someone
  - E.g anger loss tangible/intangible fear loss of control anger



#### Managing the Psychology of Parties at a Mediation

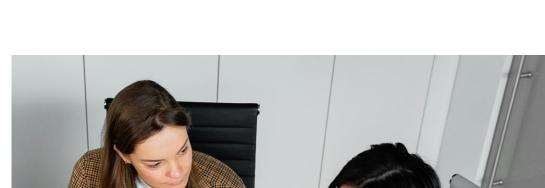
# Self Esteem

- Need approval, respect, valued
- Fear of disapproval
- Self, community, mediator
- Conflict
  - Avoid humiliation
  - Fear uncertainty
  - Retain control
- Mediator
  - dignified exit,
  - concession given



# Values

- Provides structure and boundaries
- Individual, group, ethnic, national
- Changeable
- Conflict •
  - Sedimentation
- Mediator ۲
  - Avoid judgement
  - Isolate prioritise: honesty vs dishonesty, loyalty vs freedom of choice
  - Ambiguities, conflicts: reputation vs money —
  - Shared





#### Managing the Psychology of Parties at a Mediation

#### Managing the Psychology of Parties at a Mediation

# Need to be Heard

- Listen understand agree vindicated
- Mediator
  - Listen
  - Accept without challenge



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#### Managing the Psychology of Parties at a Mediation

# Perceptions, Assumptions

- Based on past experience
- Conflict
  - Misperceptions
  - Only one truth
  - Biased, lack logic
- Mediator
  - Perception shift
  - Good enough, not perfection



# Mediator's Role

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- Build trust and rapport
- Create a safe environment
  - Be a friend (not the judge)
  - Difference of opinion (not at the other's expense)
- Look for hidden motivations (not stated wants)
- Challenge and reality test
- Short term shift in attitudes (not long-term)
- Shift towards present dispute (not life-changing)
- Shift of perspective





# Mediator's role

- Establish the parties' "world-view" in the shortest possible time
  - $\circ$  Values, beliefs
  - $\circ$  **A**spirations
  - $\circ$  Self-esteem (face, control, feel valued)
  - $\circ$  **E**xpectations of personal relationships
- Listen for the "hidden agendas" (sub-stratum)
  - 0 Conscious and articulated
  - 0 Parties are not even aware of





### Mediator's Opening Statement

- •Non-judgmental
- •Set up safe space
- •Encourage listening
- •Promote mutual understanding
- •Build trust



# Applying psychology to the mediation process

### Joint Session

- Parties to be heard, to listen
- Insights into emotions
- Correcting perceptions
- Understanding values
- Assessing witnesses
- Avoid interrupting
- Don't take notes



### Private Session

- Understand their world-view
- Shift their world-view
- Be mindful of your own world-view
  Not transform them
  Join them to look for solutions
- Look for "what's good enough"

#### Managing the Psychology of Parties at a Mediation

## Applying psychology to the mediation process

#### De-constructing

- Get to the underlying emotions (anger, loss, fear, jealousy)
- Self-concept (self-esteem)
- Value system

Identifying themes

- Repetition of words
- Returning to an issue



### Open questions

- Mediator: How do you feel?
- Party: I feel betrayed / sad

VS

- Mediator: Do you feel angry?
- Party: No.

### Reflecting back

- Parties know they have been heard
- Party: I feel that I've been <u>cheated</u> by his behaviour
- Mediator: <u>Cheated</u>?
- Party: He has taken advantage of our generosity



### Paraphrasing

- "You seem to be saying that ..."
- "What I hear from you is that ...."

### Re-framing

• "Cheated" = "You did your part and he didn't do his part"

### Summarising

- To take stock
- Check that you've tuned-in correctly
- Boosts party's self esteem
- Mediator has absorbed what parties say
- Not listening for mediator's purpose



### Empathy

- Feel with the person, not sympathise
- Brene Brown on Empathy
- <u>https://www.youtube.com/watch?v=1Evwgu369Jw</u>

### Acceptance and bracketing

- Suspend judgment, don't trivialise o "You're right, help me understand ..."
  - o "What do you understand by principle / justice"
  - o "What does fairness mean for you?"



# Applying psychology to the mediation process

### Reality testing

- Carefully, make statements, don't question
- Feedback statements on contradictions, discrepancies
- Suggest / Invite shift
- Re-examine assumptions
   *"What if"*
  - "Why is the other party behaving like this"

Silence

• Sit with it, then summarise and repeat recurring themes



# Take aways

#### Managing the Psychology of Parties at a Mediation

# Mediator's Approach

- Stay with the party, it's about them not the mediator
- Don't judge
- Check-in frequently
- Be naïve
- Allow free expression
- Engage everyone (not the mediator) to find solution
- Seize on possible concessions
- Plaster (koyok) / thank for concessions
- Acknowledge problems, don't neutralise



#### 智 S A G E C I A T I O N M E D I A T I O N I N S T I T U T E

#### Managing the Psychology of Parties at a Mediation

# Mediator's Approach

- Worry about the facts later
- Whether mediator has <u>understood</u> party, not whether party has shifted.



#### 智 S A G E C I A T I O N M E D I A T I O N I N S T I T U T E

### References

- Freddie Strasser and Paul Randolph: Mediation A Psychological Insight Into Conflict Resolution
- Paul Randolph: The Psychology of Conflict. Mediating in a Diverse World



# Thank You

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