



# *Managing the Psychology of Parties at a Mediation*

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

# 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



# 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



# 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
  - Avoid judgement
  - Isolate – prioritise: honesty vs dishonesty, loyalty vs freedom of choice
  - Ambiguities, conflicts: reputation vs money
  - Shared



## Need to be Heard

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



# Perceptions, Assumptions

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





# Mediator's Role

- 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
  - **V**alues, beliefs
  - **A**spirations
  - **S**elf-esteem (face, control, feel valued)
  - **E**xpectations of personal relationships
- Listen for the "hidden agendas" (sub-stratum)
  - Conscious and articulated
  - Parties are not even aware of



## Applying psychology to the mediation process

### 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



## Applying psychology to the mediation process

### 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*”

## 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

## Applying psychology to the mediation process

### 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 cheated by his behaviour*
- Mediator: *Cheated?*
- Party: *He has taken advantage of our generosity*

## Applying psychology to the mediation process

### 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



## Applying psychology to the mediation process

### Empathy

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

### Acceptance and bracketing

- Suspend judgment, don't trivialise
  - *"You're right, help me understand ..."*
  - *"What do you understand by principle / justice"*
  - *"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

# 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





## Mediator's Approach

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



## 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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