

# Mediation

## *An opportunity for growth*

by Richard Moss

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### Introduction

The purpose of the article is to define what is a positive outcome of the mediation process and proposes a shift towards viewing the mediation event as involving opportunities for individual growth whether or not the goal of the mediation is achieved.

This article is not intended to address any particular group of mediators but rather supports a general expansion of the goals of mediation. Put more plainly, whether or not the process of mediation achieves its goals, can the individuals involved learn something from the event, from each other or from the mediator?

### A definition of mediation

Mediation is essentially a contractual process whereby people exercise their right to negotiate agreements with one another in order to settle disputes and/or structure their future relationships. Because the term mediation is applicable to a wide variety of settings it is difficult to define with any degree of precision.

However, a mediator may be able to assist two individuals or organisations who have, perhaps through all the best will in the world, got themselves into conflict.

### A typical approach

A typical approach to a mediation would involve several phases, including:

1. Introduction and welcome
2. Interviewing of the parties for the purpose of exploration
3. Problem solving which would involve the following steps;
  - isolation of issues
  - creation of options and alternatives
  - negotiation and decision making
  - clarification and writing a plan
4. Implementation and review

Sometimes these approaches can turn conflict into a constructive outcome which enable a resolution to be reached that permits both parties to go forward with a sense of reconciliation. However, it is not uncommon for parties in dispute to

relate more immediately to past experiences and therefore to a range of coping roles which typically lead them to settle for reasons other than they have reached common understandings. For example, I have witnessed parties in mediation agreeing to settle:

- A. because the process was so uncomfortable that they wanted to get it over and done with as soon as possible,
- B. because they feared the consequences of any alternative outcome,
- C. because they believed that mediation meant splitting it down the middle and compromise was expected.

Alternatively, very often disputes are not settled at all and lead to legal or other forms of action. If there was more time for the individuals involved to unwind, or had the mediation occurred earlier in the sequence of events, an entirely different outcome may have been possible. But in mediation, very often the process is given one chance and one chance only, before another approach is tried.

In these later instances where parties have either settled for some reason not related to issues of the mediation or have failed to settle, very often the process also fails to take advantage of the ability and willingness of the individuals to gain something positive from the experience and the process. In that event, from a viewpoint of building relationships and community, the mediation system has failed in the same way as the legal system it has been set up to replace, has failed.

### **A different approach**

One of the great strengths of the psychodrama method is that it can

span the fields of politics, social theory, religion, art, psychology etc. But psychodrama is not only a method. At its core it values individual potential. In the context of mediation it is the valuing of individual or human potential which is the key to increasing the ability of the mediator and the parties to make use of the encounter.

The traditional roles of the mediator are objective observer, information giver, arbiter of fairness, executor of truth, negotiator, clarifier and summariser. In addition to these roles, I have set for myself the goal to maximise the opportunities for growth within the traditional model of mediation and as a result I have consciously warmed myself to the central roles of thoughtful investigator and impartial and compassionate authority and within those central roles, the following range of roles:

- naive inquirer
- affirmer of experience
- empathiser
- coach
- guide
- translator for one person to the other
- educator
- clarifier of differences
- mirror

As a consequence, I have observed positive outcomes in parties, where the goals of the mediation have not been achieved. For example there may be a resolve to act differently, a strengthening of relationships, a taking of responsibility, a development of maturity, a re-evaluation of past acts and priorities, a chance to grieve. Were I to ignore the potential for individual growth then the mediation would become a mere formality pervaded by a sense of failure.

My intention is to focus each party on the other so that they can be in touch with the impact each has had on the lives of the other as well as themselves. I will frequently take the parties back to a time when their relationship was satisfactory, when there was confidence in one another, when the relationship seemed to be developing in a positive manner. I might ask

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individuals to give a couple of words for their relationship, to give to each other the flavour of that time before moving to the situation as it exists right now between them. I explore the events that have led to the situation and the point where trust disappeared. How do they feel in retrospect about the part they played in this process? What would they do differently next time? My own observations suggest that although the outcome of the mediation may be negative, if the mediator is active with both parties, the outcome for the parties may be positive.

## Conclusion

Despite the well established links between counselling and mediation, there is within the traditional approaches to mediation, perhaps because of the limitations of time or perhaps because of the nature of the institutions involved, a tendency to isolate the dispute from the people involved and from the potential for individual growth. The failure of a mediation to achieve its goals does not of necessity have to equate with a failure of the mediation to make a positive intervention into the lives of those present.

The ability to utilise the principles of psychodrama and of role theory to awaken those present to the depth and breadth of the situation they are confronting provides a unique opportunity to assist individuals to progress a small part of their being. The mediator has a choice and can enter the arena of conflict from quite different standpoints; for example they can either enter the arena and relate to a world where there is a need to fight, protect and defend, where there is judgement and external controls and where there will be winners and losers; or alternatively the mediator may intervene and coach and guide so that hurts can be revealed, shared and released, mistakes can be faced and new commitments can be made, and where hope can be restored between those who are under threat of becoming disillusioned.

The ability of individuals to make the best out of adversity is ample evidence that where mediators take a more holistic perspective, then positive outcomes will result even when the major goals of the mediation are not achieved. It is here that mediators have a unique opportunity.