Chapter Five

Common Language, Different Meaning

Introduction

This chapter examines trainer-practitioners' understanding of their role as mediators. It builds upon the previous chapter, which found that mediators are a diverse group. Furthermore, the expectation that mediation is not a monolithic process, and that variation in mediation practice is connected to an individual's perception of his or her understanding of their role as a mediator guided the research. These latter two expectations were confirmed by the research results.

When mediators describe their work as "an art and not a science", they refer to their role in the process. This focus on role suggests that mediation strategies are dependent upon the mediator's perspective of his or her part in the process as well as their perspective about the other players. A mediator's perspective informs him or her about which tactics, and in which order, to use in the resolution process (Kolb, 1983:23). Role expectation by the mediators is central to the type of mediation process they employ (Mcfarlane, 1999).

Chapter 5 shows that variations in interpretation of the mediator role are linked to internal and external contexts, and those differences are manifest in the understanding respondents have about their work as mediators. For instance, while most respondents describe their role as

“facilitative” they do not always attribute the same meaning to the word. In some cases “facilitative” is connected to the management of process, in others it is about enhancing communication between the parties, and in still others it has to do with resolving a dispute. Finding this convergence in language but divergence in meaning is an important insight from this study. Even though the form of mediation has been contested[47], little research has been done to probe the meanings of these forms. And even less research has been done to link them to contextual factors. This insight also heightens our awareness about the need to understand more fully what mediators mean when they talk about their work. This need is increased as mediation continues to grow and diversify. No longer can we be content to think about mediation as a single-model process, nor in terms of dichotomous models that position one conceptualization against the other. This chapter presents mediation as a complex and varied social activity and deserving of more complex and fluid constructions of its goals.

Parts of the analysis in this chapter, and in later ones, were done with mediators clustered into groups based upon the similarities and differences in their characteristics found in Chapter 4. These clusters are 1) newcomer men with law or business backgrounds; 2) newcomer women with law and

[47] For a discussion of these contested views see Chapter 2 which overviews the work of Silbey and Merry, 1986; Bush and Folger, 1994; Kolb and Associates, 1994; Riskin, 1996; and, Waldman, 1996.

business backgrounds; 3) veteran men with law and business backgrounds; 4) veteran women with law or business backgrounds; 5) newcomer men with social science backgrounds; 6) newcomer women with social science backgrounds; 7) veteran men with social science backgrounds; and, 8) veteran women with social science backgrounds. Newcomers are individuals with six or less years practicing as a mediator. Veterans have seven or more years experience as practicing mediators.

The rationale for clustering respondents in this manner is based upon a number of factors. Firstly, the sample size in this study is not large and ungrouped data would result in cell sizes being so small that they would be rendered meaningless. Secondly, relationships between ungrouped data would be difficult to assess and reporting on them would be cumbersome. Thirdly, while mediators may not be homogeneous they do have some similar characteristics and it is sensible to group like individuals into clusters for analytical purposes. For example, individuals with six or less years of experience were found to be more similar to each other than collegues with more years of experience. Similarly, individuals with law and business backgrounds were found to have many of the same characteristics so they were clustered into one group.

Once again, the method of grounded theory has been used to code the data and SPSS was used to generate theoretical specificity and identify

patterns. The chapter begins with an examination of the role of the mediator. As will be seen, gender, dispute sector, educational background and length of time mediating are associated with variations in role. What will also become apparent in respondents' descriptions of their role and orientation to mediation is that while they might use a common language, they oftentimes mean different things by it.

I. Conceptualizing the Mediator Role

Highlights

- *Most respondents understand themselves to have more than one role as a mediator.*
- *The majority conceptualize their main role as that of facilitation.*
- *There are three understandings of the facilitator role - "facilitating process", "facilitating communication", and "facilitating resolution".*
- *Women more often describe their role as "facilitating communication"; men more often describe their role as "facilitating process". Only a very few respondents describe their role as "facilitating resolution".*

The majority of respondents in this study conceptualize their role as that of facilitation. When asked in an open-ended question format how they describe their role to parties in the opening stages of mediation, eighty-nine (89%) percent of respondents had at least one of their responses coded as "facilitator"[48]. This finding is not surprising as it has been said that mediation in its "purest" form is facilitative (Menkel-Meadow, 1995). A facilitative model

[48]Eight other role categories were coded from the responses, however, none of these categories accounted for more than ten percent of total responses. They included "monitor" (9% of responses), "advisor" (5% of responses), "coach" (4% of responses), "normalizer" (2% of responses), "agent of reality" (1% of responses), and "recorder" (1% of responses). Given these low percentages, further analysis of each code was dropped.

of mediation has also been associated with a particular set of process-related activities and it is often contrasted with more substantive and outcome-focused goals (Riskin, 1996).

While for the most part respondents depict their role as largely facilitative, they do not see this role as singular[49]. The next most frequently occurring role response after "facilitator" was "neutral third party" [50] (29% of responses). More than half of respondents (52%) conceptualized their role in this way. Veteran respondents with business backgrounds used the term "neutral third party" the most often (78% of responses).

Given that "facilitator" was the most common understanding of role for all respondents, examination of what individuals mean by "facilitator" seemed appropriate and in keeping with interpretive research practice. As suspected, deeper analysis showed that respondents did not always attribute the same meaning to their role as "facilitative" mediators. In addition, variations in understanding were connected to the contextual factors under investigation in this study - dispute sector, gender, the number of years they have been mediating, and educational background. Axial coding (Neuman, 1994) was

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[49] Two-thirds (65%) of respondents identified two roles and close to half (42%) identified three distinct roles when asked to describe their role to parties in the opening stage of a mediation.

[50] Respondents rarely described what they meant by "neutral-third party". Those that did, emphasized that they were not a judge; that they were neutral and impartial; that they would not make decisions or determine right and wrong; that they would not give legal advice; and, that parties would come up with their own solutions.

used to expand the data, open up analytical possibilities and make connections between concepts. This next section discusses the "facilitator" role in greater detail beginning with some descriptions of the "facilitator" role given by individuals in the sample.

Mediator as Facilitator

The "facilitator" role category includes descriptive terms and metaphors such as *guide*, *conduit, catalyst, bridge-builder,* and *assistant.* One respondent described her role as a guide who:

> *insures a respectful exchange of perspectives and who explore needs and concerns that must be addressed if the issues are to be resolved; I will ask questions, summarize and generally guide the discussion; I will ensure that the emotions are acknowledged and yet not allowed to escalate to inhibit the process or become disrespectful.* [41/F/W/SS[51]]

Other individuals describe their "facilitating" role in the following ways:

> [I am] *an impartial facilitator; I assist in guiding process, maintain channels of communication and help parties to explore settlement options.* [195/M/B/L]

> *My role is to act as a guide or helper making it possible for people to tackle problems together who otherwise were not able to do so on their own; my task is to help people gather what they need to make their own decisions or agreements.* [290/M/W/B]

> *My role is to help the parties communicate with each other, to enable them to hear each other and understand each other's positions and perspectives, needs and interests.* [255/F/F/L]

[51] Attribution codes refer to case number / gender / dispute sector / educational background.

> [I] *provide a structure and climate for respectful and productive discussions and assist parties to identify and obtain information they need to discuss the issues;* [I] *re-establish contact between the parties, provide a face-to-face forum [neutral] for discussions and provide an impartial presence that is supportive of negotiators;* [I] *facilitate the exchange of information within a structured framework,* [I] *help to identify common interests and objectives and develop options for agreement.* [143/F/W/SS]

As can be seen from the above few quotes a variety of tasks are associated with the facilitative role. Some include the exploration of needs and concerns, the acknowledging of emotions, the heightening of understanding, the guiding of process, the exploration of options for settlement, as well as making possible joint-problem solving, empowerment and self-determination. This very cursory look at the variation in respondents' interpretation of the facilitator role led to a fuller exploration of their understanding of this role and ultimately the intent of mediation.

The first question used to interrogate the meaning of the role factor "facilitator" was - what is it that respondents are facilitating? This examination led to the creation of four sub-categories of the "facilitator" role category: 1) "facilitate process", 2) "facilitate communication", 3) "facilitate communication and process", and 4) "facilitate resolution".

As a conceptual category, “facilitate process” reflects an emphasis by respondents on activities specific to managing the process of mediation. For example, one respondent said,

> *my role is that of process facilitator,* [I do] *not contribute to the substantive discussion but I do insure that the group moves through the process.* [69/M/C/SS]

This is in contrast to individuals who did not mention process and instead focused on communication within mediation, creating the conceptual category “facilitate communication”. The following is an example of comments coded as “facilitate communication”,

> *I remind parties that my role is to help them communicate and see the problem from each other’s perspective”.* [80/F/C/B]

The category “facilitate communication and process” included responses where emphasis was placed on the management of process and communication between parties. To cite one respondent*,*

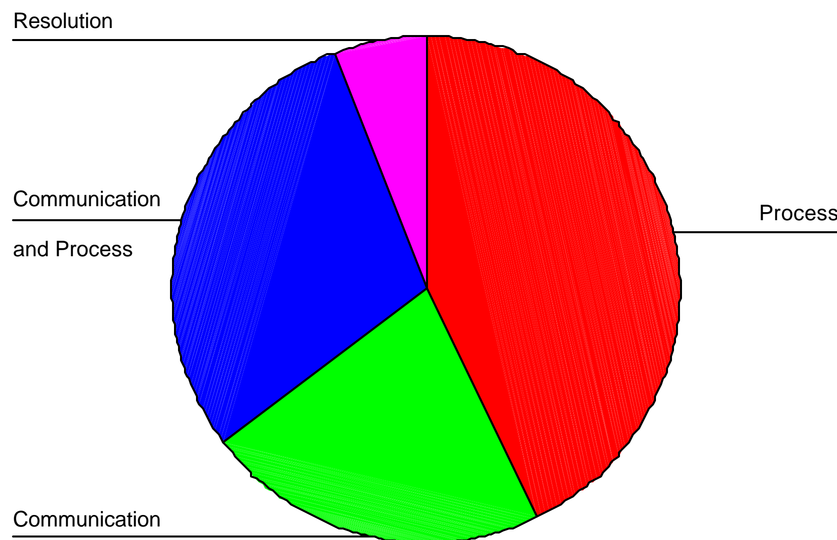
> *my role is to assist with communication (and I talk about how that will happen), and to manage the conflict,* [I am] *director of the process not the content”.* [354/F/F/SS]

The conceptual category “facilitate resolution” included responses where emphasis was placed on reaching a settlement more than on attending to process issues or the exchange of information. An example of this type of response is,

> *I am here to assist you to reach decisions about the matters in issue between you, the two of you will be making the decisions.* [355/F/F/L]

A frequency analysis carried out on those who answered this question showed that slightly more than one-third (35%) of respondents understood their role as facilitating “process”. One quarter (26%) of respondents saw their role as facilitating both “communication and process”, while seventeen (17%) percent conceptualized their role as facilitating “communication” alone. Only five percent (5%) of respondents identified their role as facilitating “resolution” (Diagram 7).

Diagram 7: What Mediators “Facilitate”

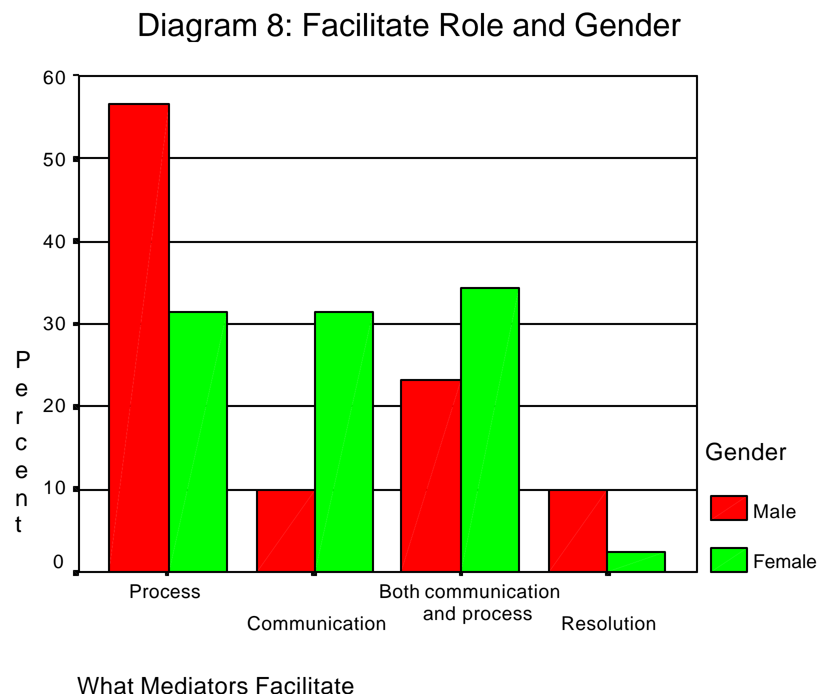


Source: C. Picard, *A Survey of Mediation in Canada*, 1998

The "Facilitator" Role and Contextual Variables

Before presenting this analysis, a cautionary note is in order. Some respondents answered the question about their role using only the phrase "neutral third party" (10% of responses) or "facilitator" (6% of responses). Given the absence of explanation for "neutral third party" and the "facilitator" role, these cases could not be included in the ensuing analysis. This reduced the sample from eighty-eight to sixty-nine cases. Even with this reduction in number of cases, insights have been generated from the patterns that emerged. Further study is needed to confirm these insights.

Gender appears to be linked to differences in how respondents understand their "facilitative" role as mediators (Diagram 8).



Women respondents tend to identify their role as facilitating “communication“ or “communication and process” more than facilitating “process”. The reverse was found to be the case for male mediators. This finding correlates with other studies that have found gendered perceptions of the mediator role. To cite one example, Weingarten and Douvan (1985) found that female mediators envisioned their role as collaborative and described themselves as a bridge between parties, while male mediators described mediation as a game and envisioned their role as acting on the parties (p.78). Studies have also shown that gender influences mediator behaviour (Gourley, 1994).

Dispute sector also has some connection to the way respondents understand their “facilitative” role as mediators (Table 19). Individuals who work in the business sector showed the strongest connection - more than half of this group conceptualized their role as facilitating “process”.

Table 19: Facilitator Role and Dispute Sector

	COMMUNITY	FAMILY	BUSINESS	WORKPLACE	TOTAL
PROCESS	41% (7)	35% (6)	53% (9)	33% (5)	41% (27)
COMMUNICATION	35% (6)	12% (2)	18% (3)	27% (4)	23% (15)
COMMUNICATION AND PROCESS	24% (4)	35% (6)	24% (4)	40% (6)	30% (20)
RESOLUTION		18% (3)	6% (1)		6% (4)
TOTAL	100% (17)	100% (17)	100% (17)	100% (15)	100% (66)

66 valid cases 66; 22 missing cases
Source: C. Picard, *A Survey of Mediation in Canada*, 1998

Mediators from the community sector also identify their role as facilitating "process". Community mediators, however, also understand their role as facilitating "communication". Family and workplace mediators were mixed in their descriptions describing their role typically as facilitating "process" or both "communication and process".

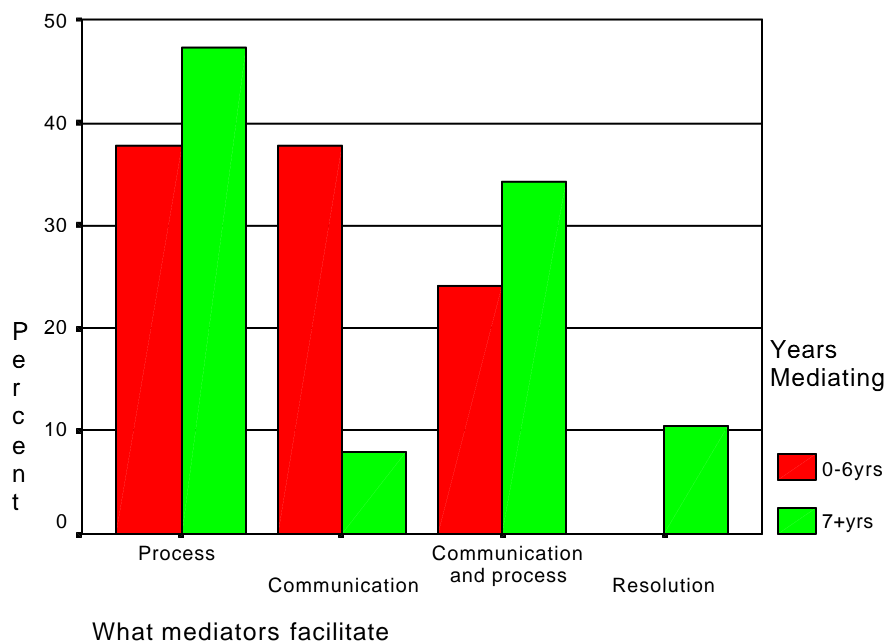
Educational background is also related to how an individual understands his or her "facilitative" role (Table 20). Almost half of the individuals with law or business and social science backgrounds were coded as facilitating "process".

Table 20. Facilitator Role and Educational Background

	LAW	SOCIAL SCIENCE	BUSINESS	TOTAL
PROCESS	40% (8)	44% (18)	43% (3)	43% (29)
COMMUNICATION	25% (5)	20% (8)	29% (2)	22% (15)
COMMUNICATION AND PROCESS	30% (6)	32% (13)	14% (1)	29% (20)
RESOLUTION	5% (1)	5% (2)	14% (1)	6% (4)
TOTAL	100% (20)	100% (41)	100% (7)	100% (68)

66 valid cases 66; 22 missing cases
Source: C. Picard, *A Survey of Mediation in Canada*, 1998

The number of years respondents have been mediating is also connected to how they understand their "facilitator" role. One-third of newcomers conceptualize this role as "process" (38%) or "communication" (38%). And, close to half of the veteran respondents (47%) conceptualize the role as facilitating "process" (Diagram 9).



The "Facilitator" Role and Clusters of Contextual Factors

Newcomer[52] women in the community, workplace and business sectors have a strong tendency to describe their facilitator role as "facilitating communication" (Table 21). In the family sector newcomer women do not conceptualize their role in this way. They were divided between the "facilitate process" and "facilitate communication and process" role definitions, with the remaining quarter describing their role as "facilitating communication". Veteran women do not see their role as "facilitating communication". In all four sectors, these women had a stronger tendency to understand their role as "facilitating communication and process" or "facilitating process" alone.

[52] Newcomers are individuals with less than 6 years of experience and veterans are those with 6 or more years of mediation experience.

Table 21. What Mediators Facilitate, Dispute Sector, Experience and Gender

		COMMUNITY	FAMILY	BUSINESS	WORK PLACE	Total
Newcomer Men	Process	67% (4)	50% (1)	50% (2)		54% (7)
	Communication	17% (1)		25% (1)		15% (2)
	Communication and process	17% (1)	50% (1)	25% (1)	100% (1)	31% (4)
	Total	100% (6)	100% (2)	100% (4)	100% (1)	100% (13)
Newcomer Women	Process		40% (2)		20% (1)	19% (3)
	Communication	100% (4)	20% (1)	100% (2)	60% (3)	63% (10)
	Communication and process		40% (2)		20% (1)	19% (3)
	Total	100% (4)	100% (5)	100% (2)	100% (5)	100 (16)
Veteran Men	Process		33% (1)	63% (5)	60% (3)	56% (9)
	Communication				20% (1)	6% (1)
	Communication and process			25% (2)	20% (1)	19% (3)
	Resolution		67% (2)	13% (1)		19% (3)
	Total	0	100% (3)	100% (8)	100% (5)	100% (16)
Veteran Women	Process	43% (3)	29% (2)	67% (2)	25% (1)	38% (8)
	Communication	14% (1)	14% (1)			10% (2)
	Communication and process	43% (3)	43% (3)	33% (1)	75% (3)	48% (10)
	Resolution		14% (1)			5% (1)
	Total	100% (7)	100% (7)	100% (3)	100% (4)	100% (21)
	TOTAL	100% (17)	100% (17)	100% (71)	100% (15)	100% (66)

66 valid cases; 22 missing cases.
Source: C. Picard, *A Survey of Mediation in Canada*, 1998

Turning to look at newcomer and veteran men in the four dispute sectors shows a similar pattern of shifting their understanding of role over time (Table 21). Whereas half of newcomers in the family sector described

their role as “facilitating process” and the other half as “facilitating communication and process”, two thirds of veterans in this sector conceptualized their role as “facilitating resolution”. Similarly, newcomer men in the workplace sector reported that they understood their role as “facilitating communication and process” while veterans described it as “facilitating process”. In the business sector both newcomers and veterans described their role as “facilitating process”. Veterans, however, had a stronger tendency to do so than newcomers.

It is not clear what this shift in conceptualization of the mediator role is revealing; further study is called for. It is, however, important to note that the longer individuals have been working as mediators the less they tend to conceptualize their role as facilitating “communication”. Speculating on the reasons for this. It may be that the changing profile of those who now work as mediators (see Chapter 4) is having an effect on how the role of a mediator is constructed. It may also be that mediators change their view of their role as they work in different sectors and gain experience.[53] Then again it may be that mediators are more “idealistic” in the beginning of their practice and over time become more practical. Or, it may also be indicative of a similar trend found to be happening in the United States where the problem-

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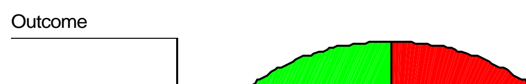
[53] This possibility seems to get confirmed in Chapter 7. In this Chapter it was found that more experienced mediators had more pluralistic understandings of mediation than respondents with fewer years of experience.

solving approach is being emphasized at the expense of more communicative and transformative mediation approaches (Bush and Folger, 1994). This latter thought prompted further analysis of the "facilitator" role.

II. Outcome and No-Outcome Meanings

Deeper examination of "facilitator" role descriptions revealed that some respondents made reference to *resolution*, *settlement*, or *closure* of the conflict situation while others did not. This caused me to investigate if there were particular groups that favoured the use of what were labeled "outcome" meanings or "no-outcome" meanings. It was suspected that the use of "outcome" and "no-outcome" meanings might be linked to differences in how respondents understood their "facilitator" role and to contextual factors. Following this train of thought, patterns in the use of "outcome" and "no-outcome" meanings by the four contextual factors used throughout this study, and by meanings attributed to the "facilitator" role were examined. Before looking at this analysis, however, it is useful to note that a frequency analysis showed that two-thirds of the sample (64%) did not use "outcome focused" meanings when describing their role as facilitative (Diagram 10). This supports the earlier finding that few respondents understand their role as facilitating "resolution" alone. It suggests that Canadian trainer-practitioners view their work more broadly than settlement-oriented.

Diagram 10: Outcome and No-Outcome Meanings



Source: C. Picard, *A Survey of Mediation in Canada*, 1998

Outcome and No-outcome Meanings and the "Facilitator" Role

Not surprisingly, there was a connection between respondents understanding of their facilitation role and their use of "outcome" focused meanings. All respondents who identified their role as facilitating "resolution" used "outcome" focused meanings. Respondents who understood their role as facilitating "communication" used "outcome" focused meanings the least often – only twenty percent (20%) had their responses coded as "outcome" focused[54]. It is not surprising to find that how mediators "talk" about their work would differ based on their understanding of their role as a mediator. Others have also found that a person's view of mediation informs his or her use of

[54] Slightly less than two-thirds (61%) of the respondents who were coded as understanding their facilitative role as "process" used non-outcome meanings, as did slightly more than half (58%) of those who were grouped in the "process and communication" facilitative role category.

particular discourse (Tracy and Spradlin, 1994). It has also been demonstrated that one's social reality influences how mediation is understood and acted upon (Littlejohn, Shailor and Pearce, 1994). This latter study found that mediators' social realities not only guide their interactions in mediation, they were consistent with the mediation training they had received (p. 78). This connection to training is particularly relevant given that mediation trainers comprise the sample in this study. It suggests that examination of a mediators training style and materials may reveal aspects of their ideological views about mediation. Finding such diverse understandings of mediation, and finding that understandings are connected to contextual factors has a number of uses. Three are suggested. First, consumers may be better able to select the type of mediation trainer they want given the assumptions and goals they may aspire to, or given the sector in which they will primarily work. Second, mediators who adopt a particular understanding of mediation may be assigned to particular cases, or, trainers to particular students. And thirdly, this information may help in setting policy for mediation training and trainers.

Examples of "outcome" focused meanings included references to goals such as reaching *conclusions*, *working it out*, and *making informed decisions*. More specifically, respondents said:

> [Mediators] *are to work with the parties to help them stay focused on their problem so they can come to a mutually satisfactory conclusion whatever that might be.* [11/M/B/B]

> *I am there to help each party reach a satisfactory solution.* [64/M/B/B]
>
> *My role is to help them make informed decisions, I control the process; they control the content.* [201/F/F/L]

The above statements are in contrast to those below in which respondents did not use "outcome" meanings when describing their role[55].

> *My role is to help the parties communicate with each other, to enable them to hear each other and understand each other's positions and perspectives, needs and interests.* [205/F/F/L]
>
> [I am] *a facilitator who will help parties come to a better understanding of the dynamics leading up to their conflict.* [57/F/C/SS]
>
> *My role is to facilitate your negotiation. While I am a professional accountant, I am not acting in that role. From time to time I may provide information, however, my primary role is to help you understand each other by asking appropriate questions.* [360/M/F/B]

Outcome and No-outcome Meanings and Contextual Factors

There were a number of contextual patterns in the use of "outcome" and "no-outcome" focused meanings. For example, men (43%) tended to use "outcome" meanings more than women (33%). Community mediators used "outcome" meanings the least often (24%), while workplace mediators used it the most often (50%)[56]. Both veterans (63%) and newcomers (61%) used "no-outcome" meanings more often than "outcome" meanings. The

[55] Four respondents' mentioned that "they were not decisions makers" and that "parties decided for themselves". Reference to "decision making" in these instances was coded as "no-outcome".
[56] Workplace mediators were followed by family mediators (40%) then individuals working in the business sector (33%).

same was found in relation to educational background – individuals with law or business (68%) and with social science (59%) backgrounds used "no-outcome" more so than "outcome" focused meanings.

Patterns of difference became stronger when the data were clustered, continuing to support the finding that variations in the meanings attributed to mediation are contextual. To illustrate this point, three-quarters of newcomer men working in the business sector used "outcome" meanings when conceptualizing their facilitator role. Veteran men in the workplace sector also had a strong tendency to use "outcome" focused meanings (68%). Veteran women in this sector and in the family sector were evenly split between "outcome" and "no-outcome" meanings.

This line of inquiry supports the assumption that there is a connection between respondents' conceptualization of their role as mediators and contextual factors such as gender, background, dispute sector and when respondents began practicing as mediators. The insight that emerged from the analysis is that although the majority of mediators in this study understand their role as one of facilitation, the "facilitator" role does not have the same meaning for everyone. As a general comment and not to stereotype, women mediators tend to conceptualize the "facilitator" role as having to do with "facilitating communication" more than "facilitating process" and they use "no-outcome" meanings to describe this role. On the other hand, male mediators

conceptualize the “facilitator” role as “facilitating process” and they describe the “facilitator” role using “outcome” meanings more than “no-outcome” meanings. These findings of gender difference are not strongly supported in the extant literature as there are mixed views about whether or not men and women perceive and react to conflict differently (see Chapter 2). Further study on the influence of gender and conceptualizations of mediation is needed. One of the notable insights from this analysis is that gender patterns of difference are linked to the length of time respondents are involved in mediation. This suggests that how mediation is understood may change with experience or with age. This is another area needing further investigation.

Another striking finding from the analysis carried out in this chapter is that while mediators may be using the same words they do not always mean the same thing. This is particularly interesting given that the study sample are all trainer-practitioners and they were chosen because of their assumed familiarity with “standard” mediation discourse. How much more different might the conceptualizations of non-trainer mediators be? To investigate further, re-examination of the question in the data collection instrument that asked respondents to define the term that most reflected their orientation to mediation was carried out. The discussion that follows exemplifies this convergence of language and divergence in meaning.

III. Common Words, Different Meanings

As set out in Chapter 2, there are many ways that mediation is understood and acted upon. One of the dichotomies that has been presented locates mediators as being either facilitative or evaluative (Riskin, 1996). According to Riskin, evaluative mediators' approach to mediation is to assess, predict, propose and press for settlement. When I examined how respondents who "label" themselves as having an *evaluative* orientation to mediation defined the term on the questionnaire, I found contrasting definitions within the sample and with the definition given by Riskin. Whereas one respondent focused on the *content* of the mediation session, another respondent focused more on *relations* to define the evaluative orientation; no respondent defined the term evaluative in a similar fashion to Riskin. In the first instance, which emphasized evaluation of content, the evaluative orientation was defined as:

> *evaluating the positions, attitudes, options, the problems impeding or helping the mediation; carefully evaluating the situation as it unfolds.* [32/M/B/L]

In contrast, the other respondent defined evaluative in more relational terms saying that it:

> *enabled the parties to be self aware, to be aware of perceptions and feelings of others, to look at common goals, to make choices based on all factors.* [300/M/C/L]

Continuing with this line of inquiry, a similar comparison with the *facilitative* orientation was carried out. This approach to mediation practice, according to Riskin (1996), is one where the mediator helps parties

understand and define the problems they wish to address as well as facilitate a discussion of underlying interests rather than positions. Contrasting this definition with the ones respondents gave below also displays an overlapping of terms but divergence in meaning. Even with just a cursory look, five different conceptions of the facilitative orientation are apparent – education, settlement, communication, process and self-determination. One respondent accentuated the educational function of the facilitative orientation this way,

> [it] *starts from the assumption that there is no cookie cutter model that can be superimposed on conflict; it is a field of counseling, no two clients are alike. Teaching mediation as a flexible and educational experience would seek the disputants input in process design, allow the disputants to educate the intervenor and each other about their perspectives, and about ways they can effectively communicate to address issues of significance to them.* [143/F/W/SS]

In another case, the facilitative orientation meant creating the opportunity to reach settlement:

> *the role of the mediator is to provide opportunities for the parties to negotiate their own settlement.* [40/F/W/SS]

In this next example of what the facilitative orientation means emphasis is placed on communication:

> *I facilitate communication and facilitate each party changing how they see the problem.* [57/F/C/SS]

For many respondents, the facilitative orientation found meaning in overseeing the process of mediation. To cite one respondent,

> [I] *guide the process, deal with what comes up around the table, do what's necessary to move on, where movement is frustrated* [I] *find out why, caucus.* [209/F/F/SS]

And finally, as an example of understanding the facilitator role as self-determining one respondent said,

> [I] *create an environment -- physically and through questions which permit parties to be aware of their own needs to arrive at their own solution.* [144/M/C/L]

As further evidence of the insight that the terms used by today's mediators do not always have the same meaning, I looked at the definitions for the *transformative* orientation given by respondents. Bush and Folger's (1994) definition of transformative mediation is one of the more recent and contested found in the literature. In their view, transformative mediation requires that participants in mediation be empowered to resolve their dispute, and be able to recognize what the other party is going through. While some respondents in this study did have similar understandings to those of Bush and Folger, others offered different meanings for the word transformative as evidenced in the following. Some respondents defined transformative as having the potential to change institutional structures; this understanding correlates with understandings of early mediation proponents (Wahrhaftig, 1982; Shonholtz, 1984). The following is a good example of this understanding:

> [Transformative mediation provides] *the opportunity to transform social process and systems into user-friendly satisfying and empowering experiences.* [22/F/C/B]

In another instance, emphasis was placed on the relational aspects of mediation as seen in this comment:

> '[I] *work on shifting the relationship between the parties* [by] *seeing each other's pain.* [131/M/W/L]

Another meaning attributed to the transformative orientation was directed toward personal transformation. One respondent said:

> *that the parties involved in the conflict will be transformed in some way by the process of mediation, in the way they may behave in the future (problem-solve, communicate, etc.); from adversarial and confrontational to cooperative and integrate that even worst situations can be transformed into positive outcomes.* [271/F/C/SS]

In a fourth instance, a respondent understood transformative as a spiritual event:

> *the person or people in essence experience a spiritual shift and would look at other conflict situations through different glasses. I as the mediator focus and believe in the essential goodness of the disputants. [312/M/C/L]*

To further illustrate, when I examined other definitions of the same term this divergence in meaning continued to be present. While it is not pertinent that I demonstrate all of the variations in terms, I would like to highlight a few more examples. The *settlement* orientation was defined, as might be expected, with an emphasis on resolution,

> *I help parties resolve their immediate problem.* [191/M/B/L]

It was also described in more process-related terms,

> *process expectations, agenda setting, the sufficiency of information for decision-making, generating options, facilitating professional input, resolutions.* [200/M/F/L]

And, it was conflated with the transformation orientation,

> *it means that my primary focus for mediation is on settlement. I really can't differentiate between the settlement and transformative. I disagree with Folger and Bush that they are either/or. They are in my mind both equally important and appropriate focuses.* [360/M/F/B]

Definitions of the term *humanistic* were also varied. In one case a respondent understood this to mean that she should feel what the parties feel

> [I] *relate to people as individuals with a specific involved interest in their problem and a desire to feel what they feel.* [9/F/C/SS]

Another respondent simply defined it as being people focused, "*people relationship oriented"* [243/F/W/SS]. And a third respondent described the humanistic orientation in more global terms,

> *humanistic means to me that people when they are fully known and honored by themselves for who they are, are divine beings capable of anything. Mediation at its best serves notice to people about who they really are and calls on them to begin to be that in a world that sorely needs them.* [282/M/B/L]

What is to be drawn from the confusing usage of these mediation terms, and what are the implications for the field? Perhaps one of the most obvious implications is that we can no longer presume to know what people mean when they talk about mediation. Thus, it will be important to continue to examine, at the micro level, how men and women understand mediation.

And as a follow-up question, how these understandings are reflected in their practice. A further implication of there not appearing to be a common language used by the mediation community is that it complicates the task of setting standards which define what is good mediation and what is not.

Conclusion

The analysis in this chapter suggests that there are many understandings of mediation and that an individual's background, experience and characteristics are shaping understandings of mediation. This may account for some of the ambiguity that surrounds the mediator role and preoccupies the field with debates about a best and a right way to mediate. Although mediation is not usually constructed as a single entity, attempts at drawing out the plurality of practice have not paid sufficient attention to the context within which the act of mediation occurs, or to the contextual experiences of mediators themselves. This work suggests that it is important to do so, and it highlights the need for further study in this direction.

This chapter also brings to the fore the insight that while mediators may use the same language they do not necessarily mean similar things. As the field moves to "professionalize" itself it will be measured on the extent to which it has a defined body of knowledge (Pavalko, 1971), and by default, a defined language system. The need to construct a common language will no doubt draw the attention of those wishing to regulate the field. Understanding

that mediation has a variety of meanings to those that both practice and teach mediation lends insight into the complexities of this task.

In the next chapter differences in meaning continue to be examined. This time how respondents describe their mediation style, why they change their style and how variations in style are linked to contextual factors is the focus of analysis.