

### The Role of Imagination in Mediation.

You are a mediator sitting in the room with a group of people you have never met before. On one side of the table is the disgruntled employee of a medium size company who believes she was fired for the wrong reasons. She is a divorced Caucasian mother in her fifties with some health issues. Her supervisor sits on the other side of the table. He is a middle-aged man of Indian origin, born in Bombay and speaking with a distinctive accent, with a degree from a prestigious university. Next to him sits the HR director. She is an African-American woman with an assertive demeanor. Their attorney is a Caucasian male who has practiced employment law for the last 30 years and looks a bit bored. Representing the disgruntled employee is a second generation Asian male, perhaps of Japanese origin. He is young, eager, and well prepared.

Before you start the mediation process you are already making some assessments. You imagine what kind of issues might occur. You imagine what kind of behavior you will have to deal with when it comes to interactions between parties. You picture their backgrounds and the environments they grew up in. As you go along you try to imagine their working environment, their personalities, and how they might act under various circumstances. You imagine the commonalities, differences, concerns, and interests each individual brings to the table. You are listening to them, imagining what hidden agendas will not be disclosed, what underlying issues the parties are not aware of when it comes to themselves and the people in the room. You are imagining options, solutions, and the obstacles that may present themselves on the way to these solutions. To make it simple, you, the mediator, must do a lot of imagining.

The higher the capacity to create imaginary scenarios and induce the imagination of others, the better chance there is that the parties will reach some form of settlement. This is why imagination plays a very important role in mediation.

There are three aspects of mediation where imaginative skills play an important role.

The first relates to stories offered by the participants in mediation. The mediation process contains a narrative component resembling literary fiction or the testimony of a witness. Many of us have had the experience of reading a novel or watching a movie which takes place in an unfamiliar part of the world or is an invention of the author's imagination. The process of capturing the veracity of these stories and making them relevant to the reader relies to great extent on imagination. Mediators conjure up a variety of scenarios in their own minds by using our memories, sensory imagination, which depends on visual and non-visual dispositions, and cognitive imagination, which enables mediators to conceptually entertain possibilities and perform reality testing. They reproduce these stories in their imagination and try to create a composite of all the stories told to them by the people in the room.

Once mediators interpret these stories and make these stories intelligible to themselves, they need to make them intelligible to everyone around the table. That is why mediators are both interpreters and translators. They clarify, explain, and reframe the content of these stories so that the participants in mediation can understand and relate to each other. Such translations are essential once we realize how people from different backgrounds perceive and process information. These translations cannot be done without strong imaginative skills. Different points of view and different perspectives can only be bridged if a creative imagination is in the mediator's toolbox.

The second aspect relates to the exchange of perspectives. Here the reproductive elements of imagination are combined with the productive (creative) aspect of imagination. The purpose is to make the stories comprehensible to all listeners and speakers so that they can at least understand each other's perspectives, even if they do not agree on the solutions.

The third aspect pertains to solutions. Whether we find that solutions materialize with the help of collaborative problem-solving and brain-storming or they are offered by mediators; it must be clear that they will not materialize if creative imagination does not take place along the way.

Let's begin with the items that our clients cannot imagine and why they cannot do so when they find themselves in an adversarial posture with others. Often people cannot imagine feeling comfortable and safe in the presence of people they are fearful of or are in conflict or dispute with. Occasionally they can't even imagine themselves to be in the same room with them or talk to them. If they disagree with other disputants

on facts and events they cannot imagine that there could be any possibility to agree on anything. People cannot imagine solutions related to their disputes and antagonisms when in adversarial posture, yet they desire some form of resolution otherwise they would not agree to come to the negotiation table and hire a mediator or conflict resolver. The lack of imagination is impacted by the discomfoting events, which happened in the past. The lack of imagination impacts the things or events which people desire, wish for, and hope for in the future

Why can't people imagine certain things about themselves and others? They cannot do so because they lack the capacity (at least temporarily) to do it or they are unwilling to do it. Things (events) become unimaginable to them. Here are the statements associated with the lack of imagination.

1. I can't imagine that someone would do something like that.
2. I cannot imagine someone would value such a thing or believe that kind of nonsense.
3. How can she feel that way in such a situation is beyond me.
4. I cannot imagine myself to be a rock climber.
5. I refuse to imagine anybody would act that way.

Imagining the possible outcomes and solutions, imagining how people feel, what they value, what they believe, what motivates them, and what action they would take is a necessary exercise for any mediator. Mediators operate in the realm of plausible possibilities and scenarios. We stress "plausible" because the mediator cannot allow imagination to run amok and end up in a purely fantastical or utopian vision. After all, so-called "reality testing" is a very important part of a mediator's repertoire. If solutions are not acceptable or not plausible and cannot be realized the whole enterprise of mediation becomes futile to a great extent. Imagination therefore fulfills at least two functions. First, it liberates us from the constraints of the unimaginable. Second, it enables transition from the realm of possibilities to the implementation of possible solutions. Both these functions are essential because it is not always immediately obvious whether certain projections are nothing but a sheer utopian vision or if under certain conditions or circumstances they can be materialized.

When it comes to inability or unwillingness to imagine things or events, one of the expressions I used previously is particularly useful. *'How can she feel that way in such a situation is beyond me.'* I want to focus on the portion of the sentence 'beyond me.' When people have difficulty imagining what the experiences of others are like (or their values, motives, and beliefs), they simply cannot find anything resembling those experiences in their own lives. Often the comparisons we try to make between our lives and the lives of others fall short. Can a person of religious faith share experiences such as the feelings of devotion or complete surrender to God with a non-believer? Can a human being comprehend what the experience of a bat is? (Note 1) Can a person who has been blessed with good health imagine what people with chronic pain or people who are blind go through? Consequentially, how can it be determined that these people do not fake their pain or their disability? (Mediators are constantly challenged by such a dilemma. On one hand they try to elicit empathy and sympathy, or at least some semblance of understanding between disputants and on the other hand they use critical assessment and evaluate the veracity of their stories.) Can people who value power and control above all appreciate those who prefer cooperation over competition? Can people who do not compromise their principles under any circumstances arrive to some form of compromise which can be beneficial to all parties who participate in negotiations?

What cannot be imagined must be distinguished from what people are not willing to imagine. They are not willing to imagine certain things or events because it might be too horrifying or discomforting to imagine them. Another explanation of why people do not wish or want to imagine certain things is that they simply do not care to imagine what others go through or value. Disregard or dis-concern for other person's experiences, values, and beliefs stems from radical differences when it comes to the diverse experiences, values, and beliefs people possess. Of course, there is another cause for disregard – Self-preoccupation with our own lives. Self-absorption when it comes to our own problems does not leave much room to imagine what others go through. *'I could not care less what you think or how you feel'* might be a typical response of the self-absorbed. More so, if we believe that others do not care about us or if the lack of concern and disregard becomes mutually reinforced it can lead to a deep disconnect between people. It fosters a

decrease in ability to imagine what others might go through and what experiences and aspirations they might have. Nowhere is this more obvious than when people are involved in acrimony, confrontation, and conflict. The emphasis on each party's own misery and injury coincides with disregard for the other who often is perceived as a perpetrator of that misery. Ill will and malicious intentions are so clear in the mind of the injured party that they prevent the injured party from imagining anything positive about the party they are in conflict with. Imagination is reduced to things people mostly fear or abhor once the opponents are perceived as villains or evildoers.

Mediators are faced with two major tasks that depend on their imaginative capabilities. The first is to recreate (reproduce) everyone's stories in their mind so they can make those stories comprehensible, acceptable, and imaginable to other participants in mediation. They do so by asking the right questions and by repackaging (reframing, rephrasing, and re-contextualizing) individual stories in such fashion that the recipients of these stories can relate to them. Here a mediator needs to figure out how the recipients process information and what type of imagining is most prevalent in recipients' repertoire. (Do they approach the world with thinking or feeling? Do they prefer visual images or do they prefer to touch things? Do they focus on the negative or positive aspects of the story?). The second task is to create a comprehensive and coherent 'picture,' which includes problems, issues, events, perspectives, and frameworks. This picture is created with a single purpose, which is to find solutions agreeable to all.

Here are some questions containing ability and willingness to imagine things and events.

1. Can you imagine putting this problem behind you?
2. Can you imagine how it would feel if you were on the witness stand?
3. Can you imagine that he would talk to you in a civil fashion instead of harassing you?
4. Can you see yourself talking to her without worrying about what she is going to do next?
5. Can you imagine yourself in his circumstances?
6. Can you imagine that the consequences you suffered were not caused by his malicious intent?
7. Can you imagine trusting yourself?
8. Can you imagine forgiving her?
9. Can you imagine what she (I, they) can imagine?

10. Can you imagine what the final outcome of these proceedings would be? Can you imagine another outcome?
11. Can you imagine the sound of your own heart?
12. Can you imagine telling them these things about yourself?
13. Can you imagine what would have happened if the bank foreclosed on your property?
14. Can you imagine how this building is going to look after it's finished?
15. Can you imagine how he would feel after you explain to him what happened?
16. Can you imagine acting this way if this was a real situation rather than rehearsal?

What is the purpose of asking these questions? One purpose is to elicit some emotional or behavioral response. Another purpose is to continue the conversation between mediator and parties and between the parties themselves.

Positive emotional responses can result in sympathy or empathy for the opposing party while imagining negative consequences can bring about emotional responses that can be avoided in real situations.

Behavioral responses can be actions people would be willing or unwilling to take while entertaining possible solutions pertaining to disputes or conflicts they are part of. Some of the responses could be expressions of understanding, acknowledgment (Note 2), agreement, or disagreement. All these responses can be exercised during mediation in the form of simulation or rehearsal. These are well-tested techniques used anywhere from sport psychology (making athletes imagine their performance) to psychotherapy (healing phobias or anxieties) and social psychology (role rehearsal).

One of the important topics related to imagination is make-believe and pretense. Conflict or dispute stories are unique stories, which often contain some dramatic twist and turns. The parties who are characters in these stories want mediators and all the other parties involved in mediation (such as spouses, insurance adjusters, HR directors, or Union negotiators) to believe their stories are true, that they are the 'good guys,' and their injuries are serious and damages extensive. They try to justify what they deserve and why they deserve it by stating certain things while neglecting to mention other things. They emphasize certain issues and de-emphasize other issues. Some facts they conceal and some things they are not comfortable talking about. They try to project an image based on their self-image or they try to pretend to be somebody different from who they really are. Occasionally the issue

becomes self-delusion or self-deception practiced by participants in mediation. (Just as anyone else, mediators are not immune from these self-deceptive practices.)

Thanks to Erving Goffman, dramaturgical approach in social psychology (Note 3) became a valuable theory which can be quite useful to mediators. The presentation of self, impression management, front-stage and back-stage performances and conversations, face-work and face-saving became the standard vocabulary offered by Goffman.

Caucusing and joint sessions are direct offshoots of dramaturgical approach. Dealing with multiple audiences, crafting different stories, and projecting different images are the essential elements of any mediation. For example, while mediating a litigated case, attorneys can provide different impressions to their clients, to opposing counsels, and to mediators. Everyone has skin in the game.

Mediators must reach deep into their imagination toolbox to figure out what is above the surface and what is below the surface and what has happened on the back-stage in comparison to the front-stage. They need to figure out what is 'real' and what is pretend, because the parties try to make them believe certain things and not believe others. Everyone is trying to convince everyone of something, including mediators.

All of us learned how to pretend to be someone in our childhood. Many of us remember playing doctor or cops & robbers, or having a tea party. Playing a character role or playing a professional role is not that different from each other. Both require a script and set of norms which are necessary for a good performance. Being a mediator means to play a professional role with all the requirements the role demands of us. One of them is to 'read' all participants in mediation, their actual goals, motives, aspirations, and strategies in contrast to those they often pretend having. The matters might be even more complicated by our ability to pretend that we pretend. This is known among the paradoxes of imagination as the Puzzles of Iteration (Note 4).

The last area of imagination pertains to solutions. This is where the creative aspect of imagination shines. Participants, including mediators, move from a problem definition to possible solutions and their implementation. All this is accomplished through negotiations, cross-validation of perspectives, acceptability of options, and agreements. The better ability to imagine things, the better chance there is that a solution can be attained.

Here imagination depends on the valuable experiences of every participant in mediation. Combining various elements, they can come up with a new solution which might be a composite of suggestions and proposals, stemming directly from these experiences. Sometimes solutions are fairly customary, sometimes they demand we take a risk and overcome fears, discomforts, and uneasiness. Sometimes the solutions depend on the high level of creativity. It all comes down to the ability to imagine oneself to take certain actions, to make certain commitments, to accept certain conditions, to adjust expectations, and to live with certain consequences.

At the end let me refresh and summarize certain points.

Imagination in mediation fulfills several roles.

1. It surpasses the boundaries of the unimaginable by reminding us to stay habitually open minded.
2. It reminds us about those possibilities which cannot be materialized.
3. It addresses the issues of pure fantasy and utopia for the sake of escaping from reality based on wishful thinking.
4. It alerts us to many forms of deception, pretense, and self-delusion that are often motivated by hidden self-interests.
5. It points to the past by listening to people's stories about what happened to them and why they found themselves in dispute or conflict.
6. It points to the future by predicting events, by assessing the consequences (intended or unintended), and by expressing expectations. It feeds hope and liberates us occasionally from present unhappiness. It teaches us about risks we want or don't want to take.
7. It enables us to rehearse and simulate performances and feelings before stepping on the real stage.
8. It allows us to overcome distrust based on past experiences and helps us to rebuild trust again.

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Note 1: (See, Thomas Nagel, "*What is it to be like a bat?*" in *Mortal Questions*, Cambridge University Press, 1979)

Note 2: Previously, I explored different types of acknowledgment in my article 'Conflict and Conversational practice,' published by [www.mediate.com](http://www.mediate.com) (<http://www.mediate.com/articles/SlamaM5.cfm>)

Note 3: In a dramaturgical model, social interaction is analyzed as if it were part of a theatrical performance. People are actors who must convey their personal characteristics and their intentions to others through performances. As on the stage, people in their everyday lives manage settings,

clothing, words, and nonverbal actions to give a particular impression to others. This is called "impression management". Goffman makes an important distinction between "front stage" and "back stage" behavior. As the term implies, "front stage" actions are visible to the audience and are part of the performance. People engage in "back stage" behaviors when no audience is present. For example, a server in a restaurant is likely to perform one way in front of customers but might be much more casual in the kitchen. It is likely that he or she does things in the kitchen that might seem unseemly in front of customers. Before an interaction with another, an individual typically prepares a role, or impression, that he or she wants to make on the other. These roles are subject to what is in theater termed "breaking character." Inopportune intrusions may occur, in which a backstage performance is interrupted by someone not meant to see it. In addition, there are examples of how the audience for any personal performance plays a part in determining the course it takes: how typically we ignore many performance flaws out of tact, such as if someone trips or spits as they speak. (from Dramaturgy – Wikipedia ([http://en.wikipedia.org/wiki/Dramaturgy\\_\(sociology\)](http://en.wikipedia.org/wiki/Dramaturgy_(sociology)))

(See, Erving Goffman, *The Presentation of Self in Everyday Life*, Anchor Books, 1959)

Note 4: For example, in the story, the spy pretends to be a socialite, who pretends falling in love with ‘a target’, being considered as a potential recruit.

(More on this subject see, Tamar Gendler, *Imagination*, Stanford Encyclopedia of Philosophy, 2011, <http://plato.stanford.edu/entries/imagination/>)