

Beyond the Dichotomy of Styles-The Devil is in the Details*

The Cognitive Characteristics of Mediator's Decision Making
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Complex Phenomenon Require Complex Management

Conflict, along with its complex psychological, emotional and cognitive dimensions, typically evolves in an intensive and uncertain manner. Often, conflicts systematically demonstrate multifaceted, nonlinear dynamics where constant yet destructive affective, behavioral and perceptual patterns are maintained. These processes are challenging to comprehend and manage. Disputants must trust a third-party intervener such as a mediator who bears a heavy burden of responsibility.

The mediation literature presents a fragmented understanding of the topic underlying the conditions to use mediation, mediators' styles and tactics of intervention and their effectiveness^{1 2}. Mediator styles are typically classified into dichotomous Models of Practice (MOPs) such as facilitative vs. evaluative³; bargaining vs. therapeutic⁴; problem-solving vs. transformative⁵; and settlement vs. communicative⁶. These models are one-way mediators cope with the complex demands of practice. They represent formal explicit 'top down' guiding principles that focus mediators' attention and provide necessary guidance and confidence in the stressful circumstances of conflict.

In a previous study conducted in our lab², twenty-two mediators, most highly experienced, managed the same conflict while being videotaped. Although a relatively low intensity conflict, four distinct approaches within two broad categories--settlement vs. relational--were identified, clearly echoing the familiar stylistic approaches found in previous studies².

Yet it is important to note that formal training in a particular formal model of practice may express itself in markedly different mediator behavior, as was observed with the transformative mediators in our study, when one of them significantly departed from her

transformative colleagues in how she handled the dispute. Hence, the tendency to use dichotomous frameworks to characterize mediator intervention and to train mediators might limit further development of mediator expertise and impede a more profound understanding of mediator cognition and what works best in mediation.

Problem-solving and the emphasis on getting agreements has been a premise of most MOPs since the outset of mediation⁵. This orientation has been challenged since the mid 90's by the transformative⁵ and narrative approaches⁷ among others. These models have emphasized the necessity to effectively deal with interactional and developmental goals thus presenting a challenge for most practitioners who have little if any psychological and/or mental health training. Though many claim that mediation is not psychotherapy, mediators still endeavor to transform adversarial interactions into constructive ones while making fast decisions in an environment where explicit and implicit psychological, emotional and cognitive factors converge. Mediation fits the definition of an ill-structured knowledge domain in which each case is complex, there is considerable variability across cases, and decisions are made under considerable time pressure⁸.

Expertise is a Necessity

In order to effectively cope with the multiple, mostly implicit factors involved in conflict, and flexibly maneuver between a mediator's own internal goals, and the external demands of the parties' needs and the constraints of context, expertise needs to be developed. Based on the abundant literature on implicit social cognition⁹, dual process theories¹⁰, decision-making¹¹, and expertise¹², it is likely that much of the mediator's decision making is not only implicit but also automatic and intuitive. Like other experts, mediators are unaware of their full implicit cognitive model¹³ so they have an incomplete picture of their habits and

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intuitions, and the reasoning behind their decision-making. Correspondingly, mediation research repeatedly presents a discrepancy between mediators' eclectic stylistic aspirations as expressed in self-reports and their limited, often rigid behavior demonstrated in observational studies^{2, 14}.

Cognition is Key

Though MOPs shape the ways mediators make decisions, they don't tell the whole story. No single model can account for the uniqueness of each conflict, the parties' variance, and the diversity of contextual demands. MOPs are unavoidably filtered and operated via each mediator's unique cognition and much of the mediator's intervention decision-making inevitably must occur at an implicit, non-conscious level. In our study we explored the nature and consequences of this implicit cognition under the heading of Schemas of Practice (SOPs)- the unconscious cognitive framework that helps mediators organize and interpret information. SOPs reflect mediators' ideas, beliefs and assumptions about human interactions, conflict and the mediator's role among others. They are efficient as they guide mediators' automatic reaction but could be ineffective as they are prone to systematic biases and flaws especially in uncertain and stressful situations.

The schema of eight of the twenty-two mediators who participated in our previous study was examined and analyzed. They all mediated the same simulated conflict while being observed, videotaped and assessed with multiple measures from 3 viewpoints: mediators', disputants', and three independent observers. The mediators' implicit schemas of practice were captured by a consensual process among the three observers who inferred the thinking behind observed mediator behaviors. These inferences were then compared with the mediators' explicit conception of their role as evidenced by their responses to pre-

mediation and post mediation questionnaires, a post-mediation interview, and a stimulated recall procedure.

Findings

In the dynamic mediation interaction, mediators often reacted unconsciously and intuitively. Consistent with mediation research, mediators' explicitly presented themselves as stylistically eclectic although most were observed behaving with little stylistic and behavioral flexibility. This discrepancy is consistent with other work on conflict styles¹⁵ and mediation¹⁴. Thomas & Killman propose that responses to conflict reflect one of five stylistically different modes, depending on an individual's personal tendencies, along two orthogonal dimensions: assertiveness and cooperativeness¹⁵. They claim that responses are relatively stable and can be used to characterize individual behavior in conflict. Problems arise when people become fixated and consistently use a single mode of operation resulting in behavior poorly adapted to the actual circumstances¹⁶. This was confirmed in our study when mediators did not adapt to situations, often reacting in a chronic manner regardless of what was considered appropriate by observers.

The mediators' implicit schema varied from simple to complex, the characteristics of which are summarized in the table below. Two universal mechanisms of coping with the stresses of the mediation role--flexibility and reflection— were identified. Greater cognitive and behavioral flexibility and reflective capacity were detected in mediators with a complex schema, and they seem to relate to higher competency and better intervention quality than those with simple schema.

Future Research

Further investigations of the nature and relationship between the implicit aspects involved in conflicts, schema of practice, and mediator performance will extend our understanding of mediator expertise and decision-making. Although there is significant

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research on mediator strategies and tactics^{2, 17, 4, 14, 18}, the multiple implicit factors shaping mediator choices are poorly understood.

Given the current findings, it would seem important to better understand how mediator cognitive and behavioral flexibility can be nurtured. An essential tool for developing the complex domain specific schema that supports behavioral flexibility is the capacity for self-reflection. Reflection is a cognitive process in which individuals attempt to increase their awareness of personal experiences and hence their ability to learn from them¹⁹. It has been well established as a fundamental component of experiential learning generally (cf. Dewey²⁰, Schön¹⁶, Lewin²¹), and in mediation specifically (Kressel^{22 23}, Lang and Taylor²⁴, Picard²⁵, and McGuire and Inlow²⁶). Reflecting on inner logic and becoming increasingly aware of hidden aspects, should support transforming ill-fitting behaviors to quality decisions and increase adaptivity level in matching mediators' goals with contextual demands. Despite the potential benefits of reflection for improving expertise in different professional practices, there is no empirical evidence as to how reflection influences mediation practice, and whether it can actually lead to more cognitive and behavioral flexibility, and increased mediator competence. Such research is very much needed.

Table

Mediators with Simple Schema	Mediators with Complex Schema
Single goal, often focus on agreement making.	Multiple goals and considerations including agreement, relational & developmental.
Focus on explicit issues.	Focus on both explicit and latent issues.
Conflict- perceived as a problem to be solved.	Conflict- worth exploring as a learning opportunity.
Emotions- perceived as means to pursue an agreement.	Emotions – perceived as a goal by itself. Essential information source to understand and effectively deal with conflict.
Self-Reflection- less necessary.	Self- Reflection- crucial for professional development & effective outcome.
Flexibility is less important.	Cognitive and behavioral flexibility are important and both should match to achieve a coherent mediation process.
Lower “fit”*.	Higher “fit”*.
MOP is more dominant .	MOP is less dominant.
Simple, linear intervention.	Diverse , non- linear intervention.
Automatic 'System 1' reaction is less adaptive and skilled.	Automatic System 1' reaction is more adaptive and skilled.
*between: 1. Internal mediator’s cognitive components; 2. Mediator’s schema complexity & behavioral complexity;3. Mediators’ approach, interests, and goals & contextual demands and parties expectations.	

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