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# Columns

## The Human Side of Complex Public Policy Mediation

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*If properly harnessed, the passions inherent in complex public policy disputes can be a driving force for reaching sustainable agreements, rather than leading to chaos. The author discusses how mediators can intervene to challenge existing assumptions, encourage ease among negotiators, promote curiosity and lay the groundwork for achieving actionable agreements by delving into human nature and the spectrum of differentiated human emotion.*

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**T**he human side of complex public policy questions reflects a chaotic mix of passions, values, interests, emotions, self-interest, and altruism. Over time, this chaotic mixture may become configured as confusion, gridlock, conflict, and/or violence. The particular configuration of a complex public policy challenge is created, in part, by the assumptions made by involved parties and maintained by a steady flow of selective

perceptions that continuously supports positions taken and defended. Subjecting such a situation to mediation suggests that the existing configuration, the status quo, is no longer feasible or sustainable.

The process of public policy mediation will function to de-construct and re-build parts of the existing configuration to create an “actionable” agreement that results in progress on the issue at hand. To

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do so, the mediator operates and intervenes at a meta-level of process design; macro-level of human nature; and micro-level of differentiated human emotion with the goal of ensuring that negotiators are at ease and engaged in creative thought.

One of the greatest assets available to the mediator is the seething passion among the negotiators. It is this passion, when lifted up out of the chaos and successfully harnessed, which fuels the dynamism that smashes the stagnant configuration and motivates the representative negotiators to build anew.

To begin to make sense of the chaos, I posit a number of my own assumptions which include: 1) those affecting or affected by an issue have valuable knowledge and wisdom to contribute toward its progress that needs to be drawn out, compiled and integrated into the product of the negotiations; 2) those affecting or affected by an issue hold assumptions that are embedded in their perspectives of the issue, and some of those assumptions need to be surfaced and examined to create opportunities for new ideas to emerge; and 3) a well-designed and implemented process will likely result in a unique and durable agreement.

In addition, I posit the following assumptions about human nature: 1) human nature includes potential for a broad range of action, thought, passion, and emotion; 2) circumstance may impact which action, thought, passion, and/or emotion is expressed; and 3) social structures can be built to create systems of circumstances that lead toward virtue, as in the example of

Plato's Republic. (In the Republic, Plato sets out an ideal governance structure that is designed to orient men and women toward the good and the just.)

With these assumptions in mind, I set out to design a unique process to create a temporary society among the stakeholder representatives to encourage the expression of the highest aspects of human nature and that relies on the capacities of all its members to address a particular common public problem. I work to implement the process design such that it creates a prism through which the potentials of human nature are bent in the direction of progress. If the spectrum of human nature consists of the entire range of human action, emotion, and thought that has been expressed by humans throughout time, then how is one possibility selected over another, how can one angle the prism to promote passionate and focused productive deliberations rather than chaotic miscommunication?

Each process design is dependent upon an array of factors such as the goals of the mediation effort and the requirements for developing an "actionable" agreement. Some projects have only primary goals while others require attention to secondary goals as well. The primary goal is the product of the negotiations, or the vehicle for progress, such as a regulation, plan, policy, or constitution. The secondary goal is the long-term effect of the consensus-building process on sustaining the new configuration. For example, a secondary goal could be an improvement in relationships among

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people who will work together to implement the agreement or it could be engaging people in self-governance to deter corruption.

The design must also reflect factors that will result in an actionable agreement. An actionable agreement is one that is viable and likely to be implemented. "Actionability" is related to participation, relative power, and availability of resources. To be implemented, the agreement must be institutionally linked to an implementing entity (or entities). The negotiating team must include members of all stakeholders groups that will be affected by the outcome—those who can block implementation and those who will be expected to act. For example, when agreements are likely to include voluntary actions, the process design might include mechanisms for intensive input from voluntary actors in addition to the negotiators. Actionability also means that the agreement is a reasonable reflection of the existing power dynamics because if it is not, the constituents of the negotiators who conceded too much will prevent implementation of the agreement. Ultimately, the process design is the structure that enables negotiators to surface, assess, and revise those assumptions that limit their ability to form new perceptions of the situation, which will lead to new ideas and new opportunities for progress on the public policy question.

With the security of a sound process design, as mediator, I delve into the macro-level of human nature. I become aware of the multi-

ple dimensions of the human condition including the chaotic mix of passion, reason, and emotion as well as the assumptions that humans use to create their sense of reality and security in their world and the perceptions that sustain that reality.

In other words, I sense the Platonic cave, which provides security and structure for the individual, but also only a shadow of reality. Whereas attempts to drag people from the cave into the brightness of the light often fail, as a mediator, I work to gently shed a bit more light on the situation, easing people into discovering the limits of some of their own assumptions. I work to create a secure and protective environment to minimize the fear and confusion associated with not knowing or with letting go of a deeply held assumption, so that they can come to experience curiosity.

At this macro-level, I primarily intervene to assist people to re-configure the assumptions and emotions of the existing situation to make progress on the public policy issue. Three examples of these interventions are: help people to know what they don't know, invert the certainty-uncertainty dynamic, and to identify a passion-tension and its associated unifying "supercessive" force.

### **Know What You Don't Know**

Socrates was considered the wisest man in all Athens because he knew what he didn't know. In public policy mediation, almost all stakeholders make false assumptions about other stakeholders. These assumptions crowd the space

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needed for new and more accurate information. Thus, to begin to re-configure the existing state of affairs, the mediator must help people to know what they do not know. As mediator, I must challenge assumptions and perceptions to enable a new configuration to emerge that will be based on a closer approximation of the reality of the “situation,” with all of its complexity.

### **Invert the Certainty-Uncertainty Dynamic**

A second example of human nature level intervention is to invert the certainty-uncertainty dynamic. Most parties enter into negotiations certain of their cause and the rightness of the positions they promote, but uncertain of their ability to negotiate a successful conclusion. Thus, at the outset of a project, the certainty-uncertainty dynamic is pointed in favor of the pre-existing configuration that has led to stagnation, impasse, and conflict.

A more productive dynamic is for parties to be certain that their legitimate interests will be satisfied to the greatest extent possible, but uncertain as to how. When stakeholders jointly acknowledge each other's legitimate interests, an ease is created that enables the curiosity needed to participate in joint problem-solving and create an actionable agreement. Thus, I not only identify false assumptions, but also introduce the element of curiosity to supplant the fear that might otherwise enter into the newly realized place of the unknown.

### **Passion-Tension and its Unifying Force**

A third dynamic in public policy mediation is to identify the existing passion-tension among the participants and then uncover a “supercessive” unifying force to channel those passions into productive negotiations. In the majority of public policy cases, participants' lives have been shaped by adherence to the values associated with their organizational missions and are informed by deep passion for their cause. As interests, values and missions differ, the participants' diversity of passions comes into conflict.

Think of passion as a positive magnetic force. When you try to bring together positive forces, as when you hold the like poles of magnets together, they repel. This repelling situation exists in public policy conflicts. The mediator works to identify these conflicting passions, normalize their existence, and then harness this passionate energy toward productive negotiations

To do this, one must uncover a unifying force that supercedes the forces of repulsion. One method I use is to assist the parties in constructing a mission that legitimizes and contains their strongest beliefs in the context of the negotiation and identifies a higher order goal of balancing all of their passions, interests, and concerns. This unifying supercessive force binds beyond the repulsion. The passions expressed within the unifying framework energize the commitment to the common goal.

In addition to intervening through the creation of a process

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structure and, by delving into human nature to enable reflection and review of assumptions, as mediator I must also intervene to enable individuals' emotions to work in favor of productive negotiations. My goal is to encourage an emotional atmosphere that enables people to be at ease and engaged, and provides opportunities for clear "signaling" on the substance of the negotiations. To create this atmosphere, I work to foster productive "signaling" among negotiators; normalize dynamics of public policy challenges; and intervene to reduce unease or disengagement.

### **Foster Productive Signaling**

While passion, if not properly managed, can pull negotiations apart, a great deal of emotion expressed during public policy disputes can be productive "signaling." Negotiators "signal" each other through emotion. Such signaling can be a clear and efficient method of exchanging information. For example, if a person urges a proposal that has already been rejected and an ordinarily quiet person expresses great anger, the person promoting the proposal may quickly learn that it will not be accepted. In a room filled with purely rational actors, a lengthy discussion may be necessary to arrive at the same conclusion.

The difficulty of managing emotion at meetings of large numbers of people is that different people "signal" differently. Fear may be individually differentiated into the emotion of anger, withdrawal, or even humor. In addition, one "signal" may trigger a host of others. A mediator needs to work to enhance

the expression of critical emotional cues to enable productive negotiator signaling on the substance of the negotiations.

*Normalize Dynamics of Public Policy Challenge.* The realities of conflict and power differentials and the need to unpack the complexities of confusion can trigger strong unsettling emotions. By normalizing such characteristics of complex public policy situations, people begin to expect the expression of passion, conflict, and authority. Taking away the element of surprise reduces the potential for emotional reactions which may limit people's curiosity and willingness to explore new thoughts and ideas and increases the potential for productive signaling.

*Interventions in Favor of Ease and Engagement.* Emotion can also be read as signals of each negotiator's level of unease and engagement. Overall, with regard to the array of emotion expressed at a meeting, my goal is to reduce unease and harness engagement. To this end, I work to "read" people to sense their calm, their frustration, their thinking, their courage, their boredom. I intervene to reduce unease or disengagement and promote ease and creative thinking.

### **Harnessing the Power of Passion**

The human side of complex public policy mediation is often the problem and the solution. Embedded within the chaos that fosters conflict is the powerful energy of passion that, if properly harnessed, can lead to progress through actionable

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agreement. If human nature encompasses the potential expression of the entire range of human action, emotion, and thought, then the public policy mediator must construct a reality — through a process structure, testing of assumptions, and fostering productive signaling — that enables representative negotiators to point their passions in the direction of sustainable configurations for shared challenges.