

(i.e. personal therapy and supervision) I wonder how psychotherapists fare in comparison with medical doctors and other professions.

Perhaps it's more a story of our times.

Diana Pringle

Mediation: A Psychological Insight into Conflict Resolution

Freddie Strasser and Paul Randolph. (2004). London: Continuum. 224 pages. £17.99 pb.

My husband, a marketer, *tells me all too often,*

'The problem with you psychotherapists' 'is that you talk to each other more than to other people. You huddle in your insular groups, speak a language nobody else understands and then wonder why you are failing to expand your appeal beyond a small niche'.

This is a book that, in my view, disproves this accusation.

Six years ago Freddie Strasser, existential psychotherapist (and former entrepreneur) teamed up with Paul Randolph, a barrister of 30 years experience. Together they designed the 'Alternative Dispute Resolution' (ADR) course at Regent's College. It was aimed at both legal and non-legal professionals who were keen to substitute financially and psychologically expensive litigation with mediation. Within a year of its launch, ADR had become extremely popular. Students reported how rapidly their self-experience changed and, while learning how to mediate, they developed new ways of relating to others.

The course is unique because it uses psychological insight (of an existential kind) to advance the mediation process. Drawing upon their considerable experience, the authors apply existential psychotherapeutic wisdom into novel territory with clarity. The knowledge and skills on offer in this book, although aimed at facilitating mediation in legal settings, can readily be applied to any situation characterised by conflict.

The book is organised in three parts. The first part which has three chapters, offers principles and theories relating to psychological approaches to mediation. The second part deals with legal aspects and the third part is a selection of case studies.

The first chapter explores ways in which conflict has been understood in Western culture. I enjoyed this but some might find a little hard going if they are anxious to get to the point. Taking an historical perspective and quoting Aristotle, Heraclitus, Descartes, Hegel, Darwin, Freud, Adler, Rogers, Kierkegaard and Sartre plus a number of social scientists, the authors invite the reader to examine socially prevailing attitudes toward conflict (*'conflict is a very bad thing and it should be avoided'*). The

authors point out that any budding mediator should avoid a negative attitude toward conflict – otherwise conflicting parties will fail to explore their experiences and shy away from the most potent opportunity for creative resolution. Chapter two of part one offers a convincing argument why mediators should use psychology. The authors expose the commonly believed position that if we were to exercise an unemotional, rational and pragmatic attitude to every conflict, all disputes would soon disappear. *‘It can rarely be in the commercial or practical interests of any party to be in or to prolong conflict with the other. So’*, ask Strasser and Randolph, *‘what is it that prevents parties from resolving their disputes reasonably, rationally or amicably’*, (p 23). This is a rhetorical question that effectively provides the philosophy - all disputes involve injured feelings - of this chapter, if not the whole book.

Strasser and Randolph then take the reader through the stages that enable disputants to *‘transcend the antagonistic and emotional stance and move... from their initial confrontational position to a more reasonable platform’* (p 24). They suggest a shift from a rigid *‘these are my rights and I want them’* position to a *‘let’s work towards a “good enough” solution’* is achieved by *‘softening’* both participants. *‘Softening’* involves self-understanding – i.e. the mediator attempting to help parties acknowledge rigid value systems which motivate their existing coping strategies. Once both parties’ attitude to the specific dispute shifts, they may be more open to a new solution. Often this happens when they recognize that they share a particular value or vulnerability and that they live, as Husserl (1970) suggested long ago, *‘in a shared world’*.

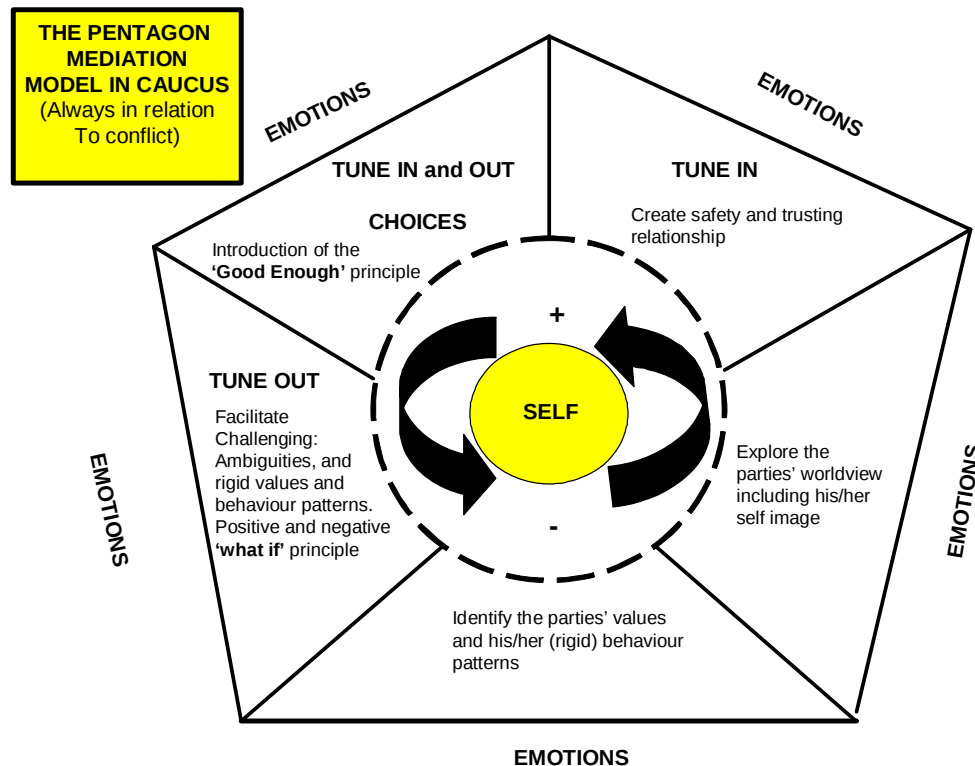
The authors also teach us not to be fooled by an apparently overt reason for any dispute. We are asked to identify covert motivations. As Strasser and Randolph explain: [The party] *may believe they are simply seeking proper redress or compensation whereas, in fact they are expressing anger and hurt, and a desire to see the other party punished and humiliated.* (p 28)

The book then moves on to summarise its unique mediation strategy. Conflicts should be facilitated through three simple stages:

- a) Discover and explore hidden motivations
- b) Encourage realisation of the fact that entrapment in the situation is mutual and reciprocally destructive
- c) Realise that by changing attitudes to conflict, resolution can follow.

Chapter three of part one addresses communication. It teaches listening skills without being overbearing. It starts by stating one of our most important needs – the need to be heard. How often do we forget this when we fail to give people the attention they crave? Before they launch into their tips and tricks of listening, the authors issue a warning against deploying listening mechanistically. They define mediation as the process

of *'being with ordinary people in an ordinary dialogue'* (p 43-44) and promote the idea of a mediator being spontaneous and natural. At the same time they provide a process framework: below is their mediation model, reproduced from the book (p 44).



The diagram represents a non-chronological and non linear approach to mediation

This pentagon shows the importance of *'tuning in' to the party's perceptual mind and also of 'tuning out' in order to see the situation from a greater perspective'* p.45). The authors suggest that once the mediator has achieved and demonstrated empathy with their client's predicament, their (client's) world view (including self-image) can be explored. At the same time the person will be able to examine their (rigidified) values and behavioural patterns. *'Tuned out'*, the mediator can start to help the client challenge their ambiguities. The mediator should adopt a 'what if' stance to encourage client(s) to consider options other than those originally desired. Finally (last slice of the pentagon), the mediator is reminded to assist conflicting parties to move towards - and accept - a *'good enough'* solution.

Part 2 of the book places mediation within a legal context. Currently, ADR courses accommodate two distinctive approaches to mediation: evaluative and facilitative. In evaluative mediation, the approach is *'directive'* and *'interventionist'*. The mediator plays a neutral role as an

expert; mediator and client can sometimes end up ‘trashing’ the case during their private (or caucus)¹ session.

He or she [an evaluative mediator] will... seek to obtain as much ‘ammunition’ and information from that party to take across to the other party in caucus, in order to be in a position to ‘trash’ their opposing case with equal vigour. Frequently, the mediator employing a ‘trashing’ technique will draw upon his or her own experiences, whether as a veteran litigator, advocate or judge, and give a predictive opinion, based upon that experience, as to the outcome if the matter were to proceed to court. (p 67)

The authors’ stance towards this type of mediation reminds me of humanistic therapists’ stance towards CBT. Too much power remains with the expert, while the client is directed through the process. The evaluative mediator’s expertise ‘discourages self-evaluation, prevents self-determination, results in polarization and encourages parties to focus on their rights and liabilities, rather than their interests and needs’ (p 68). Strasser and Randolph’s approach adopts a facilitative attitude which the reader is guided through. Part 2 goes on to explain the difference between negotiation and mediation. This is an important section: most readers will have professionally negotiated some cases in the past. They have to unlearn some very old habits, resisting temptation to drive conflicting parties towards a premeditated outcome. Lessons from phenomenology are put to good use in this section.

Part 2 then goes on to explain the process of mediation. The authors recommend a specific opening address and the reader is advised how to arrange both chairs and conflicting parties throughout the exercise. The scene has to be arranged with delicacy. This is most important in a situation where everybody is likely to have arrived feeling very fragile. After a joint session, where both parties get an opportunity to present their case to the mediator in front of each other, the mediator will spend time with individuals in ‘caucus’ sessions. Here the mediator practices listening skills. Randolph’s years of experience as a barrister and mediator have provided him with the insight to predict pitfalls. This gives the book its

¹ The process of mediation opens by a session attended by both parties, where they, maybe for the first time, hear the other tell their side of the story in the form of the ‘opening statements’. In UK mediation models (including the one proposed in ‘Mediation’), the majority of sessions (following the first one) are private: The mediator meets with each party individually until the ‘warring’ sides are ready to meet again.

high usability. The reader is warned against obvious oversights, such as forgetting to ask, before embarking on mediation, whether parties have the authority to settle. The authors remind the mediator to make sure that they book the rooms for the duration of the mediation so that the keeper does not try and lock them out as they are nearing the settlement. They also teach more subtle lessons, e.g. it may be effective for the mediator to gain the settlement on less contentious issues before tackling the really difficult ones, thus creating a momentum of movement towards accord.

In part 3 the book moves to case studies that apply existential theory to mediation scenarios. They also give the reader an opportunity to rehearse mediation protocols. Each serves to illustrate a different aspect of what has been discussed earlier in the book.

One of this book's biggest plus points is that it does more than it 'says on the tin'. With its emphasis on understanding conflict, the book can be used in personal life, at work, in schools or in court. It is a very useful read for a couples therapist, a business coach, or a work-place counsellor, who can all learn from an existential approach to conflict resolution. Indeed, I would have preferred to have seen some non-legal case studies included in Part 3. Despite this, *Mediation* does a very good job spreading existential-phenomenological philosophy beyond the small niche of philosophers and psychotherapists. The book is written by practiced professionals, not people who have just worked out a new method and happen to like writing. It has been shaped by the experience of practice and teaching, observing and experimenting. Its style reminds me of Anthony Stadlen's comments on theory, namely that theorising should be talking about what we are doing rather than creating abstract knowledge (Oakley, 2002). So often, sadly, theorising appears to be divorced from practice and real life, life outside our professional circles. This kind of 'dissociated' theorising just might occur when we spend too much time speaking to each other in a language nobody else understands, but I won't give my husband that satisfaction.

References

- Husserl, E.G.A. (1970). *The Crisis of European Sciences and Transcendental Phenomenology: An Introduction to Phenomenological Philosophy*. Evanston: Northwestern University Press.
- Oakley, S. (2002). *Friday For a Reviews, Contemplating Practice 31/3/02 Anthony Stadlen* from Hermeneutic Circular, October 2002. London: Society of Existential Analysis.
- Strasser F. and Strasser A. (1997). *Existential Time-Limited Therapy*. Chichester: Wiley.

Sanja Oakley