

## **PROFESSIONAL SKILLS IN THE MANAGEMENT OF EMOTIONS OF THE MEDIATOR FOR THE RESOLUTION OF CONFLICTS IN TOURISM AND OTHER SECTORS**

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### **Abstract**

This paper exposes the qualities, principles and handling of emotions that must be possessed by the professional dedicated to Mediation in Conflict Resolution in Tourism Industry and other sectors. This document explains how a conflict of interest arises between the parties are involved; also, as the assumptions that allow the formation of rigid concepts and positions that keep people in their disagreements are introjected. The classical models of mediation were reviewed; narrative is treated as a valuable tool that helps to transform the life histories of human beings to reflect and to pose alternative scenarios of reconciliation and with that to contribute to the successful mediation; resilience is also analyzed not as resistance but as contribution of life and transformation of the conflict. The materials that were used were documents in order to have the basis and background of solving problems. It is clear that it will take some time to be part of the general acceptance because these conflicts are usually taken to a court and it is no yet, part of the Mexican culture.

**Key words: Mediation; Interests; Introject; Conflict; resilience.**

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## 1. Introduction

Throughout the history, humanity has faced conflicts of different nature and order taking into account cultural, personal, moral, economic, ethical differences, and so on; before this has tried to solve in different ways the differences from positions such as aggression, punishment, annulment, isolation and even the suppression of the other. The above has generated frustration between society and results in most cases have not always been satisfactory; in this sense it became necessary to transform the ways of conflict resolution. This change also has its background in the State-Society binomial to find ways to develop strategies and / or mechanisms to reach agreements that did not involve wasting the state's economic resources, seeking at all times that justice be prompt and expeditious in the understanding of social stability, as well as allowing people to regain control of their decisions in their daily life and environment.

In the development of these new strategies, there have been many experiences that have given rise to innovating through different models, with which the criteria, skills and characteristics of the person who exercises the mediation have been refined. Being a tool of reconciliation is essential that the mediator has an ethical, professional and technical framework without detracting from the equanimity, stability and emotional balance in addition to the sensitivity to identify in the media the psycho-emotional aspects that move them and unlock the conflict which led them to seek the remedy of Mediation.

The document is divided into five sections, the first one explains how the conflict originates, how the positions of the media are maintained and how through symbolism they are introjected and transform fundamental concepts in human beings, the second exposes the emotions and their universal conception; in the following the classic models of mediation are pointed out and how the narrative and resilience influence to transform the stories of each person, in the fourth theme the mediator's abilities are addressed and in the last one the principles that the same one has to be emphasized.

### 1.1 The conflict, the assumptions and symbolism

Human beings in their social, labor, family, personal and intimate interrelations face conflicts and / or daily difficulties. This problem gives rise to the dilemma for the search for a means to find the solution of the phenomenon (Ortuño, 2013) defines conflicts as:

*"Situations in which two or more persons enter into opposition or disagreement because their positions, interests, desires or values are incompatible, or are perceived as incompatible, where emotions and feelings play a very important role and where the relationship between the parties in conflict can be strengthened or deteriorated depending on how the conflict resolution process is (page.8). "*

It points out that when talking about conflict it is associated with violence, pathology, negative situations that have to be avoided and that alter emotional stability; and our reactions to it are to obtain the greatest benefit, to harm the other; from that moment arises the conception of the "rival", the "enemy" to win. The foregoing is joined by the philosophy of WIN- LOSE, which has its belief that in the face of a conflictive situation for one to win another has to lose; not to worry about the person or the means employed.

People living in society create culture and adopt customs and in them are involved ways of viewing the world and phenomena creating dichotomies of good-bad or right-wrong generating rigid introjects and assumptions. In addition (Grua, 2009), indicates that:

*"assumptions move unconsciously in humans; an assumption is something taken for granted, and truth is founded on it; these are the reasons for how judgments are formed".*

And this way of seeing life is our truth, we never question our assumptions, not reconsider changing them. For the above when two people are faced with different and / or opposite assumptions, a conflict arises. There are assumptions of a necessary nature (principles and values) and the problem is not that the assumptions are different but that they are indisputable, but when dialogue is allowed in the mediation of the necessary assumptions, the situation can rethink the problem and the result will be different.

By our human condition we introjected values, the conception of the world, the moral, all this has been instilled in the first place by our families, the school, the interpersonal relations, in some cases the religions influence; and this is done through everyday life examples of our primary figures, models present as teachers, politics and culture through oral tradition.

Another author establish that culture influences our way of dealing with conflicts (Garcia-Castellano, 2016), explains:

*"That when we are children our imagination is nourished by the traditional narratives of the histories of our culture; we learn feelings of justice, fear, revenge, repentance, forgiveness, reconciliation, and so on".*

For Bettelheim (1994), the symbolic language of the stories releases the fears present in the wolf or the witch; for Jung, (1998) is the animus and for Steiner (1991) fairy tales hide a spiritual world. And it is through these structures that we forge the concepts of justice or punishment.

The same author refers that the symbolism inherent in most children's stories leads us to introject that the end of the conflict between hero and villain, aggressor and aggressor concludes with the victory over the wicked and that his punishment produces a liberating feeling. That is how one learns to overcome the fears and to experience security and the author raises a questioning, if in this way the punishment is not perpetuated as only posture before the aggressor.

It refers that this retributive model of justice learned from the earliest stages of life has only brought more villains to prisons and has not achieved re-education and social reintegration; only repairs the material question, does not heal the injured bottom of the victim, nor the background from where the offender leaves. Likewise, he points out that aggression destroys the network of the bonds of society and the wound only heals if a dialogue is established between the aggressor and the aggressor. But not all society is prepared for it, that education at the beginning of development can weave a moral conscience that enables reconciliation processes.

There are authors like (Monbourquette, 2005), who states that forgiveness is a fundamental part to agree on differences

*"The criteria by which society is commonly governed do not value authenticity, generosity, kindness, compassion, and vulnerability, nor do they invite to reveal their own weaknesses or virtues linked to the request for forgiveness".*

The author exemplifies that in African villages, there are references of a restorative vision through "the song of the heart"; when an African woman is pregnant the community composes a song and this song the town is sung to the child when it is born, grows, marries and dies; but they also sing it if they commit a crime or an aberrant social act, take it to the center of town, form a circle and sing their song. The tribe recognizes that the correction of antisocial behavior is not punishment, but love and the memory of one's identity. She herself mentions that knowing how to interpret or discuss the structures that form the concepts would contribute to a reconciling vision of conflicts to forge the basis of the restorative and non-retributive idea.

## **1.2 Emotions and mediation**

For the subject at hand it is vitally important to address the issue of emotions, because they are part of our nature as they are presented in a constant way in our daily life, so it is elementary to take them into account to make an adequate management in moments of controversy; for (Díaz, 2012),

*"Conflict causes emotional tension and the first symptom is unrest, that is, decisions are made under some degree of that tension. Emotions originate from an internal or external event and prepare us for adaptation to our environment".*

According to the duration and intensity of the emotion, it is established the importance of the same and allows to know what happens in people. Then,

*"the information provided by the emotions acquires a guiding value, since it reveals the motivations, desires and interests" (Paszucki, 2013).*

So it refers to the emotions help us to decide. Damasio (2008), developed the concept of somatic marker:

*"A pleasant or unpleasant emotion may appear marking the course of a thought or mental image."*

And for Frankl (2004), the assumptions of "going" or "staying" are associated with a feeling, the assumptions that allow "inner peace." In this sense we are able to identify in the other their emotional state through the gestures and get adapted, even at a given moment intervene if there is some kind of involvement, and this does not exclude the mediator who must train in the most accurate identification of emotional states through nonverbal language, gestures and microexpressions.

According to Matsumoto (2001) in more than 30 investigations, the conclusions about the universality of facial recognition of emotion are replicated. Matsumoto, *et. al.*, (2008) carried out studies and elaborated a list of the seven basic emotions and their universal expression: anger, contempt, disgust, fear, joy, sadness and surprise. And he points out that the facial expressions of the emotions have a biological and genetic origin, for example:

*"when spontaneous emotions are activated in people with congenital blindness, the same facial expressions that are generated in the faces of sighted individuals are produced".*

In conclusion, if the mediator develops the necessary skills in identifying and managing the emotions generated between the midwives, success in their work can be guaranteed, counting this skill as one of the most important skills.

### **1.3 Classic models of mediation, narration and resilience**

Mediation as a method to solve conflicts has increased and the fundamental reasons are that it is: fast, economic, voluntary, the parties involved decide the beginning and permanence and is perceived as a technique, an instrument and even a satisfactory experience, in which an expert exposes

*"mediation has the extraordinary virtue of reordering the conflict scene, introducing a series of aspects that facilitate the creation of a more favorable scenario for the agreement: rationality, realism, good climate, objectivity, etc." (Serrano, 2006).*

Flores (2014) explains that mediation has been incorporated in most Latin American legal systems as an instrument or solution to the problems of congestion and delay of the legal system. It also arises from the search for a less expensive system to resolve disputes quickly. Mediation is the search for a culture of nonviolence and the empowerment of citizens to resolve their conflicts in a rational and communicative way.

It exposes that the classic models of the mediation to know are: 1. - The Harvard linear mediation, 2. - The transformative mediation of Bush and Folger and 3. - The circular-narrative mediation of Sara Cobb.

He explains that the first model, the Harvard model is not a system of mediation but a school of negotiation. It is a mediation method for assisted negotiation; mediation is a collaborative negotiation assisted by a third party. He states that the Harvard model is based on the "Fisher-Ury method", which considers four basic points in the negotiation: 1. - People, that is, separating people from the problem, 2.- Interests, focus on interests , not in positions, 3.- Options, invent options for mutual benefit and 4.- Criteria, insist on using objective criteria.

So the Harvard Model is problem-solving oriented; and considers that conflict is an obstacle to the satisfaction of interests or needs that are incompatible; and that therefore a "collaborative" work between the parties is necessary to obtain satisfaction of the interests of the parties in disagreement. The purpose of mediation in the Harvard model is to help the parties reach an arrangement acceptable for all.

The second model, the transformative Bush and Folger, explains the author that the conflict is an opportunity for moral growth in two senses: 1. - Strengthening of the self and 2.- Overcoming the limits. The perspective is oriented to communication and interpersonal relationships. Bush and Folger propose a therapeutic approach; their goal is to develop people's potential for change by discovering their own abilities. The transformative model works on "reevaluation" and "recognition". Reevaluation refers to people's self-esteem and their ability to cope with their lives. "Reevaluation is achieved when the parties to the dispute experience an awareness of their own personal worth and their own ability to solve the difficulties they face." (Bush & Folger, 1996).

The recognition is the sensitization between the actors, this is reached when the parties in dispute are able to recognize and be sensitive to human situations and qualities.

The third model, circular-narrative by Sara Cobb, focuses his work on the narratives of people in conflict. It is called narrative because it focuses on the point of view of people; aims to reach an agreement but with the emphasis on communication and the interaction of the parties. In order for people to reach a consensus, it is necessary to transform the stories they tell about the conflict in others where they leave the position that led or maintains them. The parties arrive at the conflict with personal narratives that must be analyzed in order to be later transformed. The cultural context, the values, the beliefs, the relationships that frame the narratives must be identified; so we have to "change the narrative" with which people come to mediation by helping the parties to generate an alternative, different story that enables change.

Continuing with this conception of narrative as an element of transformation of history to generate changes in the perception of conflict is pertinent to link it with the idea of how the narrative collaborates with processes of resilience. The concept of resilience is understood as a capacity of the human being to build life in the midst of adversity and as a process of mediation of humanization for society.

Granados, *et. al.*, (2015) point out that to live is to relate, the story is a way of knowing and knowing the world in which we live.

*"resilience has to do with telling stories, with the way subjects narrate stories from life experiences as a result of coping with adversity"*.

In telling stories, human beings evoke creative scenarios. According to Bruner (1997, 2003) the human being gives meaning to his world by telling stories about himself and configures his identity with what happens to him. From the resilient narrative, the human being learns from his own self-perception to face adversity and to tell the lived experience as meaningful and transformative.

The resilience goes beyond simply resisting or strengthened in the midst of chaos, trauma or adversity; seeks the potential of human beings to unleash personal, community and collective



actions in the reconstruction of the social fabric. The authors point out that people go on living as they construct stories about the experience of life; and emphasize the importance of the narrative told by the protagonist of the story using autobiographical stories,

*"when stories are told, subjects become protagonists and can understand their own existence, always in dialogue, in conversation and interaction with others" (Magnabosco, 2014).*

Narratives are collective ways to understand the world, and embed in history and culture; when telling stories, people are also telling the time that has come to live.

It is important to emphasize the importance of resilience as a process of humanization through life histories and their significance. The stories of life have their basis in the narrative, in making the biographical source of knowledge for action and social transformations. The method of life stories rescues one's existence as a valid form of knowledge, puts an interest in the experience of people as social actors and how they build their chances of a dignified life. In another way, (Brandt, 2001) points out that life histories reflect the way a group of people face life explicitly or symbolically, narrated from their own voices. In life histories the singular is not the individual, the life of the subject that appears in history, it is the history of the community to which it belongs from its own vital experience. The stories of life are based on memory and memory; they recognize trajectories, paths traveled, ways of thinking, joys, sorrows, failures and achievements. They can also identify ways to face life, links or tensions with people, places that remain in memory, unforgettable events that have left their mark, social networks, deep love relationships, hard relations of mistreatment, abuse that have caused suffering. Also, (Korniblit 2007), points out that the individual and personal narrative of a person allows us to see the complexity of the social, allowing us to know the most dense that happens in the life of human beings.

#### **1.4 Skills and Emotion Management of the Mediator**

This section highlights the importance of the skills and knowledge that the professional must have and develop in the management of emotions in the process of mediation to ensure that it is

successful and that the parties to the conflict reach fair agreements, balanced and that "wounds" open in this process "heal" safely and can continue their lives in a peaceful and stable.

The characteristics of the mediator are skills, traits or behavioral patterns perceived by the media that come to resolve their conflict. In this sense, the mediator's abilities to achieve a successful and satisfactory mediation are: impartiality, credibility, professional training, sympathy, firmness, conciliatory attitude, understanding, manifestation of satisfaction, control of hostile expressions between the parties, attempts to create trust, capacity of suggesting, exerting pressure, clarifying important matters. Flores, points out that "ways of acting" have a decisive influence on the resolution of mediation.

Iglesias, points out that the mediator is the third in this process, which is accepted by the parties, is impartial, does not make decisions, helps the parties; it works on the resolution of latent disputes, locates the parties in the present, facilitates a relationship between them towards the future; does not do therapy, encourages communication; identifies and perceives emotions, clarifies interests and legitimate postures.

Moore (1995) points out that the mediator assumes different roles and roles in resolving the conflict; opens channels of communication, legitimizes and helps all parties, provides a procedure, educates novice negotiators, multiplies the resources it provides, explores the problem, organizes a reasonable and viable resolution, leads and encourages negotiations.

The mediator must be trained in the specific skills and techniques of quality that allow him to develop competencies for the practice of his work. Diego and Guillén (2010) refer that the intervention of a mediator is requested at the moment that the feelings are intense and do not allow the agreement, when presenting a communication "mediocre" between the parties, when the stereotypes hamper in serious disagreements on what information is important, when there are discrepancies in the order of the issues in dispute, identifying irreconcilable real or apparent interests, handling a wrong negotiation procedure, and when there is difficulty in initiating negotiations. And from these assumptions the mediator is the impartial and neutral third party to

which the parties to the conflict can come who are unable to resolve their differences on their own.

In this sense, there is another group of factors that are considered "success criteria" in mediation and are the following: achieving agreement in the process of mediation, perceived efficacy, overall satisfaction, opinion on the overall satisfaction of former spouses (in the particular case of family mediation), satisfaction on each of the issues addressed and agreed, willingness to comply with the agreement, recommendation of the use of mediation to others and positive opinion of mediation.

### **1.5 Principles of the mediator**

In this last part of the essay, emphasis is placed on the principles that every mediation professional must have in order to carry out his work and reach the objectives set by the media.

The mediation for Briz, not only is the intervention of an impartial third party to reach an agreement between the parties to the conflict, nor is it the mere discharge of work for the courts, but this, through the techniques, should help achieve their own goals. In the search for good for others the mediator is involved in a theoretical framework, through its principles applying the good faith. To apply this principle, the mediator must be aware of his own person to live his vocation in the exercise of it. The author points out that in today's society the value system is in crisis; and that when a person has a conflict and decides to go to a mediation process, it not only requires an expert in the media to mediate with all the principles of the same, but also needs a person who acts through ethical and moral, so that you feel that your interests and rights are protected.

In addition, Briz points out that the principle of good faith is one of the most difficult to specify, because of the scope of its conception by Roman jurists. It exemplifies that in the German Civil Code, it is the guiding principle of the Law of the Obligations, and is the axis in the system of obligations and contracts at international level. Gamarra, classifies good faith as

*"a general clause together with the public order, the good customs, the diligence of the good father of family, just cause".*

OrdoquiCastilla refers that the concept of good faith is a legal standard and Statti points out that it is a measure of social behavior. For Gamarra, the judgment of the judge and the agreement of the mediator allow to create a "jurisprudence of values". So when referring to good faith as a legal standard, the judge or mediator must have as a model the experience and reality of each situation, which must be governed by principles and values.

In mediation the parties involved in the conflict are seated in their position of what is just and what is unfair according to their scale of values; and that those positions are what make them opt for an alternative method of dispute resolution. In this framework, the principle of good faith must guide the actions of the mediator and the parties or any third party involved. And that any process of mediation implies a process of negotiation between the parties that must necessarily be governed by the principle of good faith. Briz, points out that the principle of good faith must be present throughout the process, from the beginning until it is concluded and that if the agreement was not made in good faith, it will not be effective. Likewise, he says that good faith must accompany all the principles of mediation as they are: voluntariness, impartiality, confidentiality, and so on.

The principle of good faith must govern the conduct of the parties, the mediator and any third party involved in the process. The values that govern the behavior of the parties and the participation of third parties in this process are: willingness, respect, honesty, confidentiality, collaborative attitude, openness and flexibility.

As for the figure of the mediator, the ethical values that must have and which translate into the application of the principle of good faith, is that it should act in an impartial manner, should not be charged to any of the parties, must encourage they explore their possibilities to reach agreements. The mediator has to conduct an examination of his or her own prejudices and if he perceives that any is being presented, based on the principle of good faith, will have to exclude itself from the process. Likewise, the principle of confidentiality is important because the information obtained from said process can't be used for any purpose other than to obtain an agreement to resolve the conflict; and that in criminal mediation there is an exception to this principle; which is when some criminal act arises in the process or that people have some risk to

their physical and / or psychic integrity. It concludes by pointing out that the mediator must at all times be a professional, who should not make false promises, nor give guarantees about the outcome of the process; must have openness and respect for the actions of the media and other mediators and cooperators of the services provided by the competent institutions.

## **2. Research Method**

The method that was used were theories on conflicts, common solutions, culture and emotions, much of the paper was mentioned how emotions influences in the decisions in both parties.

## **3. Results and Analysis**

At this stage it is difficult to know how this new way to established a solution, how long would it take to make this process to be effective one, during years, we would say long time, mexican law has been directed by tradition Roman way, the problem is how we, the community, would face a new way to get an specific solution in an alternative way.

We found that t emotions take a great deal of importance in the decisions that both parties face and the mediator has to have the ability to diminish this issue in order to take the best decision.

As was mentioned in the introduction section, culture takes a great importance in the new model of alternative justice, nor only because we have been using the old way to proposes solutions but how the people would see an expert in this area given a possible solution in a conflict.

## **4. Conclusions.**

The Mediation is a tool that allows society to establish agreements in an orderly, peaceful, equitable way, and the emotions of human beings are in the midst of this process of search for Alternative Justice; so it is important to be able to detect, understand and handle them in a timely manner and with the best quality and capacity by the Mediator so that the people involved in this phenomenon feel covered by a mediation professional.

In this tenor, in the tourism industry is common to have certain conflicts when a costumer buys an specific service, but no only in this industry, other sectors are consider, mediation is also a

reality that Mexican society has to consolidate effective and efficient methods of justice that involve all and in particular professionals who wish to train and train in alternative methods of dispute resolution to achieve ideals like society developed, cultivated, and transcended into more civilized, non-aggressive ways, and with greater moral quality.

In this sense, the mediator, besides possessing knowledge, techniques and skills in the management of mediation; must have principles, ethical, moral and professional that allow it to assist the parties in conflict with the purpose of understanding the facts to reach points of reflection, convergence and negotiation and thus achieve balanced agreements for both parties.

The fundamental ability that every mediator must have is the ability to detect emotions and manage them to explain to the people involved in this conflict resolution process that they have to separate their emotions from the primary objective of establishing agreements together without putting in irrigation their psycho-emotional stability.

The importance of the re-education of society in the early stages of development was highlighted; and a tool that helps in this restructuring is the reading of the traditional stories, which allow to modify the introjects of values and conceptions of good and bad in society in order to rethink new forms of thought contents and different scenarios with those who have grown as a society for alternatives to restorative rather than retributive justice. Also the narratives are another fundamental tool in the middle that allows elaborating resilient processes of self-restructuring and growth to consolidate a healthier and stable society.

Finally, for mediation to be considered a success, it is essential that the mediator covers a number of desirable characteristics, that is, a set of skills and qualities linked to the constructive resolution of conflicts. For individuals to bet on alternative justice processes, where the scenarios are idealized and with integral stability for the whole society

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