

Separate the People from the Problem - or the Person from the Action. Strategy or Compassion? In Theory and in Practice

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In some mediations, I ask myself why people so resolutely retain their anger, their bitterness, or their hurt for such long periods of time. Often mediation takes place only after a conflict has escalated and hardened and been going on for a while, in some cases many years. If feelings of anger and bitterness persist over years, I can't help but feeling that this is a sad way to spend your life. And often, it is the people who have felt this way for a long time who do not leave mediation much changed, at least on the surface. And it is often people who feel so hurt who refuse to engage in mediation after the first intake interview. They cannot imagine settlement, let alone reconciliation. They remain angry. Or hurt.

This blog is not going to offer any answers as to what mediators can do, or how I have managed to work in situations like this. I do not have any ready answers. Appealing to the alternative to settlement or agreement might be a (dare I say?) textbook answer that comes to mind. I can say from experience that it has not helped much in my mediations - the context of many of them is very personal, and not a question of people representing the interests of an entity outside of themselves, like a company they work for. I can't help feeling that here, and perhaps elsewhere, something more fundamental has to happen for people to let go of their anger and pain.

I remind readers of Fisher and Ury, who recommend separating the people from the problem. Deal with the problem on its merits, they say, but also acknowledge the emotions that people bring to the table. And do not allow the emotions to change the merits. This makes a lot of sense, but I have always had my doubts too. It may be that it is a little too strategic for my liking. To make this clear, I will exaggerate a little: separate the people from the problem, and address the emotions, but not because you respect the emotions for what they are, rather because if you do not address the emotions you won't get what you want, and if you do you will have a much better chance of getting what you want. I have great respect for *Getting to Yes* and the school of theory it set in motion, particularly for laying the foundation for interests-based negotiation and mediation. But I have always felt that the theory had a very rational basis to it, and sometimes it is not rationality that is needed. And why shouldn't a better understanding of emotions change the merits anyway, if it turns out to be appropriate?

Reading around recently I came across something that reminded me of Fisher and Ury and their idea of separating the people from the problem, and that also helped me better understand what I was looking for. I was reading Noah Levine's book *Refuge Recovery: A Buddhist Path to Recovering from Addiction*, in which he writes about forgiveness: "Some actions may not be forgivable, but all actors are." Understanding this, Levine goes on, "allows us to separate the person from the action and finally see the confused human being behind his or her hurtful act."

This struck a big chord with me, certainly because I have known significant moments of forgiveness in my own life. And also because it related to my work as a mediator. When I conduct separate or private sessions in mediation, I get to hear different sides of the same story, or different stories of the same relationship or events. And nearly every time, I find each side's emotions completely plausible, and yet the two people telling me their stories are sometimes so angry with each other, or so hurt by each other, that they cannot "see the confused human being" in the other that they in fact both are. Escalated conflict is, I contend, a form of confusion. All parties are hurt; they see each other primarily as the inflictors of that pain.

In an interview you can read [here](#), Levine said: "there are actions that are unforgiveable, but there is no one, no person who is unforgivable." And: "Until we forgive, we're still wishing harm upon our enemies." These are radical ideas, and I have been asking myself if they can be useful in mediation, or if I am asking too much of mediation by suggesting this.

Is this appeal for forgiveness akin to the classic mediation story with the punchline: "an apology was what they wanted most"? Actually I think not, although it might seem like it. I think it goes deeper than that. This is an appeal to accept what went wrong and move on in compassion for yourself and the other. And it is the compassion here that makes separating the person from the action so different to separating the people from the problem. There is a large qualitative difference between compassion and empathy.

I sometimes wish I could ask some of the people in my mediations if their anger makes them any happier, or their lives more fulfilling. I sometimes wish I could recommend to them that they ask themselves if it is healthy for them to stay so angry, or so bitter. I sometimes wish I could talk to them about compassion, both with themselves and with others. Reading Noah Levine has given me more courage to consider questions like these in future.