

Kluwer Mediation Blog

I'll See You on the Dark Side of the Moon: Reflecting on Rapport, Trauma and Resonance in Mediation

John Sturrock (Core Solutions Group) · Sunday, March 28th, 2021

"It's hard to beat Dark Side of the Moon" he said. "What a piece of music." I agreed: "Did you ever see Pink Floyd play Dark Side live? I recall being at Earls Court in 1994." "I was there too!" he exclaimed. For a moment or two, we reflected on the album's seemingly relevant song titles, like "Us and Them".

It was about 4.15pm on the mediation day. We had gathered the key players and their lawyers together in a plenary session to take stock of progress. One of the lawyers had a collection of vinyl LPs in view on the Zoom screen. This had stimulated an earlier conversation about music, in that lawyer's private room, with his client. As we gathered now for this later session, I chose to use that earlier conversation as a way to start the meeting, by commenting to the other side's principal decision-maker, a business turnaround expert, that he and I had not discussed his musical tastes. He had turned his camera round to show his collection of albums, leading to the Pink Floyd comment - and a completely spontaneous conversation then arose between the clients about their musical tastes.

On another occasion, while meeting a party for the first time in a preparatory meeting to test out comfort with using Zoom, I asked her partner, who was present to provide support, what he was doing to fill in time during lockdown. *"Making a model of a Lancaster bomber,"* he told me. *"Fancy that"* I was able to reply, *"One of my pandemic jobs has been to go through some old boxes containing papers from my father. Just the other day, I was reading his navigator's log from his time flying on Lancasters in the Second World War."* Not only that but when we next met on the mediation day, I was able to show him my own Lancaster model from 1965!

Mere passing moments you may think. Perhaps not. With mediation now taking place online, and every prospect that this will continue after the worst of the pandemic is over, we don't have the same opportunities to build and sustain rapport with people as we might do naturally when in the same physical space. We can't shake hands for example, a human ritual with powerful effects and ancient origins (see the recently published **The Handshake** by Ella Al-Shamahi). We need therefore to take new opportunities to generate rapport as they arise. Not only that but to look for and even create such opportunities. The two exchanges described here (adapted slightly for this post) completely changed the tone of an important plenary meeting in the first case

and built confidence and provided reassurance in the second.

I have come to think that this goes further. In a [previous post](#), I discussed the traumatic effect that engaging in litigation must have for many people, the harm it must cause. Participating in mediation can be traumatic too when it arises in the context, as it so often does, of an ongoing dispute or conflict between people who hold different views and have experienced the entrenching of positions. For those involved, however different we hold out mediation to be, there is often anxiety attached. Our job is to reduce that as much as possible and engage people in constructive activity.

We know that conflict can promote separateness, self-protection, a silo-mentality. In a recent conference on trauma, I was interested to learn that this response resides in the left hemisphere of the brain. It affects how we see the world. Under pressure, we know that our fight, flight or freeze response is engaged. Apparently, when we live in fear, the left hemisphere of the brain is dominant. The majority of us apparently view life through the left hemisphere with no real sense of who we are. The way of the world at present, placing many of us under chronic stress and hyper vigilance, pulls us in that direction and away from the warmth of relationships. We are told that the pandemic has robbed many of us of our social and cellular systems of protection. The absence of close physical proximity induces a higher stress response. The neural impact of chronic stress can cause changes in the brain structure. The right hemisphere of the brain, that part which builds connections, relationships and warmth, and slows us down, is damaged by trauma.

In our conference, we learned about the autonomic, parasympathetic and sympathetic nervous system, neuroception and its connection to perception. We explored the importance of the ventral vagus as our safety system and the dangers of what is referred to as the dorsal state. The former enables connection, resourcefulness, option generation, hope and compassion. The latter results in numbness, hopelessness and loss. And so on. For me, it was both a revelation and strangely familiar, as if I had alighted on a parallel explanation of what I have learned as a mediator.

A question for the conference was how to engage the right hemisphere, to reduce the damage caused by chronic stress. We learned about resonance, recognising that what the human brain craves more than anything else is to be understood, to be accompanied and not alone. We were told that words are crucial. Language, originally a grooming or connecting process for apes, became used over time in a more left hemisphere, technical, mechanistic way (I note the proximity of this thinking with the fascinating insights in Joseph Henrich's recent book **The Weirdest People in the World: How the West Became Psychologically Peculiar and Particularly Prosperous**).

Often, our language causes loss of connection. If it promotes left hemisphere activity, we see others as instruments to achieve our goals. On the other hand, we can change everything, including our relationships with others and their stories, by what we say, by the way we talk. This takes us back of course to the non-violent communication about which so many of us learned half a generation ago from [Marshall Rosenberg](#). As I write this, I am reminded of another recent book which addresses how we can deal with mental health issues in ways which resonate for me as a mediator, **Chatter: The**

Voice in Our Head, Why it Matters and How to Harness It by Ethan Kross. “Changing the conversations we have with ourselves (and with others) has the potential to change our (their) lives.” (Bracketed words added by me). That book would merit a post on its own.

To the importance of language, we add the safety cues discovered in the upper third of the face, including the eyes; the impact of what we hear; and the music and rhythm of the voice and tone, as another cue for danger or safety.

All of this should of course be meat and drink to the mediator. Think about its application in what we do – and the verification this provides for what we have learned, often by instinct. Think about this in the context of building rapport on Zoom, of finding ways to engage the right hemisphere, of reducing the traumatic impact of conflict, of resonance and the brain’s need for understanding and accompaniment, of the impact of words we use at critical moments, of the way our voices can help to change the story. And Dark Side of the Moon? The Lancaster bomber? I venture to suggest: much more important than we might think.

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The image shows a promotional graphic for Kluwer Arbitration Practice Plus. On the left, there is a blue background with white text. On the right, there is a screenshot of the software interface. The interface has a blue header with a white checkmark icon and the text 'Explore Practice Plus'. Below the header, there is a profile card for 'Gary R. Barr' with a photo and some text. To the right of the profile card, there are three circular charts or gauges. At the bottom of the interface, there is a footer with the Kluwer Arbitration logo and the Wolters Kluwer logo.

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