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# Kluwer Mediation Blog

## Mindfulness and Mediation

Joel Lee (National University of Singapore, Faculty of Law) · Wednesday, October 14th, 2015

In February 2015, the American Bar Association Section of Dispute Resolution organized and ran the Asia Pacific International Mediation Summit in New Delhi, India. I had the honour of presenting at a number of sessions at the summit and I would like to explore one of those sessions in this month's entry.

I was part of a two person panel presenting on "The Mediator's Mind: Neuroscience, Culture and Mindfulness". My co-panellist was Ms. Claudia Bernard (Chief Circuit Mediator, United States Courts for the Ninth Circuit) and the session was moderated by Howard Herman (United States District Court, Northern District of California, United States).

Ms. Bernard presented an informative and in-depth look at Neuroscience and how it might affect mediation. My segment involved looking at mindfulness and mediation.

It is interesting that some days before this session, we visited the Samadhan Mediation Centre. As we were shown around the facilities, we came across a room, curiously labeled "Meditation Room". Some of us joked about how it was a misspelling of "Mediation Room". However, upon clarification, we were told that the room was for the Samadhan Mediation Centre's mediators to meditate; before and/or after their mediation session.

This encounter with the "Meditation Room" led me to draw links between meditation with mindfulness and the mediator's mind. What is mindfulness? And why is the mediator's mind so important?

At an intellectual level, we can say that, the mediator's mind is the source of the processes and strategic moves that the mediator engages in to assist parties in resolving their disputes. However, for the purposes of this entry, we are speaking of something a little more esoteric and metaphysical.

The starting premise is that human interaction is systemic. It is not simple cause and effect in the way Newtonian physics would have us believe. Fuzzy logic or the laws of quantum physics would be a better way to think about human interaction.

We have all experienced this. Remember an interaction when a friend/partner/spouse was a bit "off" emotionally. Apart from it affecting the content of your interaction, it also affected your own emotions and mood, in sometimes not so subtle ways. Consider the opposite where someone's good "energy" was so positive that it was infectious!

Applying this to the context of mediation, when a mediator feels emotionally unbalanced or stressed, the parties pick up on this and may themselves feel emotionally unbalanced and stressed. Whether we rationalize that this is due to a “disturbance in the force” (apologies to Star Wars fans) or through unconscious cues from non-verbal leakage, the fact remains. The mediation is not just a third party neutral with no impact on the parties apart from process. The state of the mediator’s mind and emotions has a very real, albeit sometimes subtle, effect on the parties.

If we accept this to be true (and I would understand if this proposition does not fit for some readers’ world views), then it is very important for the mediator to be in the right frame of mind and emotions when mediating between parties. The question of course is how to achieve this right frame of mind.

Meditation is one such way. What is meditation? As one might suspect, there is no easy or straightforward answer to this. For some, there are religious connotations. For others, it is connected with physical activity like Yoga or Tai Chi (??). Put simply (and perhaps too much), meditation is about entering into the state of being in the moment. Your internal voice quiets and one simply pays attention to what is actually happening here and now. In this moment.

As intellectual creatures, we find this hard to do. We live in remembrance of the past or the anticipation of the future. Very rarely do we simply experience what is. The Zen Buddhists refer to this as “satori”. Imagine if I were to toss a very sharp knife to you and you had to catch it. At the moment where the knife was coming towards you and you extended your hand to catch it by the handle (because any other way would be foolhardy), you would have no internal dialogue. You would simply be living in the moment. Your attention would be in the here and now.

There have been studies on this (if some readers were wondering how this connected with Neuroscience). People who meditate enter into an alpha brain state. This is scientifically testable. Going into alpha state is characterized by being in the moment, paying attention to the present (both internally and externally), a subjective slowing down of perceptual time and a sense of calm.

There are a number of classifications to meditation. One classification is that meditation can be done with “seed” or without. With “seed” means that one mediates with a particular focus in mind. This could be the breath or a sound or a word. This “seed” is meant to focus the mind, which will then lead the brain into a meditative state.

Another classification is that meditation can be done with movement or without. The latter can be done seated, standing or lying down. The former can be any kind of physical movement that focuses the mind. Many runners and dancers experience a meditative state. Tai Chi (??) is often referred to as “moving meditation”. Practitioners of Chi Gong (??) also report experiencing entering a meditative state.

It is not my intention for this entry to be a manual on “how to” meditate. There are others better qualified to do so. Instead, I would like to share with readers a relatively quick way to enter into the alpha state from the field of Neuro-Linguistic Programming (NLP). When done correctly, this technique will put the user in what is referred to in NLP as “uptime” which describes a state whereby the mind is in the moment but externally focused. This allows the user to pay attention to what is going on in real time while maintaining a heightened sense of mindfulness.

There are three components to entering into “uptime”. The first is fixation of attention on a point. This requires the user to identify a point (whether real or imaginary) in the distance and to focus on

that point.

While doing this, the user is to practice the second component, which is diaphragmatic or belly breathing. This means to breathe using as much of the lungs as possible. As we grow older, we tend to breathe more shallowly and in the upper part of our lungs. This will consequently lead to increasing disuse of the lower part of the lungs resulting in a loss of lung capacity. Diaphragmatic breathing will be familiar to those who sing or do Chi Gong (??) or Yoga. What's significant is that diaphragmatic breathing will invoke what Dr. Herbert Benson refers to as the relaxation response.

This brings us to the third component, which is activating peripheral vision. The human eye is geared towards two types of vision. The first, foveal vision, is a function of the cone cells. This is central vision, which gives you clarity, accuracy and detail of vision. The second, peripheral vision, is a function of rod cells. This is peripheral vision, which detects context and movement. When one is stressed, we tend to concentrate on foveal vision. Going into peripheral vision activates the parasympathetic nervous system which, among other things, lowers blood pressure and relieves stress. Peripheral vision can be activated by, after fixating one's attention (foveal vision) on a distant point (as set out in component one), paying attention to movement in the environment without moving the eyes. It takes some practice and can be assisted by having a friend standing to the side and making hand movements.

Once these three components are mastered, one can go into uptime at will. How does going into uptime directly impact the mediator? In my personal experience, there are three very real benefits.

First, the activation of the parasympathetic nervous system de-potentiates any stress or negative emotion the mediator might be experiencing. Put simply, it allows one to be the eye of the hurricane; to be calm even though there may be a maelstrom around you. This will allow the mediator to think clearly even when parties are in acrimony.

Secondly, it allows for the continued gathering of quality information. Because perceptual time can seem to slow down when one is in peripheral vision, the mediator will be better able to see the non-verbal cues and patterns of interaction between the parties. And at the risk of sounding a bit too "funky", one can better appreciate the movement of energy between the parties, between the parties and the mediator, and in the room.

Finally, and this goes back to the earlier point that human interaction is systemic. When the mediator is "uptime", parties can pick up on this non-verbally and energetically. The mediator's balance and calm may be adopted by the parties and the parties may feel more confident in the mediator and the mediation process.

I trust this entry has not been too funky for readers! I invite you to try out this technique when sitting in a café or in a park and you can just concentrate on being in the moment. Once you can go into "uptime" at will, I would suggest systematically going into "uptime" before, during and after the mediation.


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The graphic features a black background with white text and a circular icon. The icon depicts a group of five stylized human figures, with a magnifying glass positioned over the central figure. The background is accented with horizontal lines in blue and green at the top, and a circular arc in blue, green, and red on the right side.

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