

# Kluwer Mediation Blog

## Improv and Mediation

Joel Lee (National University of Singapore, Faculty of Law) · Monday, March 14th, 2016

I said in last month's entry that that was going to be one of my occasional funky entries. Should I be concerned that for this month's entry, I have decided to write on something equally funky? Bear with me, it's clearly a stage I'm passing through. Either that, or my medication is wearing off!

I hope that readers will forgive the slightly jocular start to this entry. It seems appropriate considering the topic. First, some background. I teach a 12 week Mediation Workshop at the Faculty of Law, National University of Singapore. In this course, my co-teachers and I aim to teach students the frameworks, concepts and skills to allow them to develop a basic level of competency as a mediator and a mediation advocate.

During the 20 years that I have taught Mediation, I have always been looking for fresh and new ways to enhance the training and learning of mediation. This year, I decided to engage in a teaching experiment. I had always thought that good, if not great, mediators were extremely able to cope with uncertainty and to go with the flow. The challenge was how to consistently teach and nurture this skill-set?

Turns out that one of my former mediation students (now a practicing lawyer) was involved in an improv group and he felt that much of what they did overlapped with the skills required of mediation. Long story short, after a number of conversations, we arranged to have a 3 hour improv workshop for the students of my mediation workshop.

Most of us may be familiar with improv comedy from shows like "Whose Line Is It Anyway". Needless to say, improv as applied to comedy is only one aspect of improvisational theatre. For readers who are new to Improv, you might wish to read some background information at [https://en.wikipedia.org/wiki/Improvisational\\_theatre](https://en.wikipedia.org/wiki/Improvisational_theatre).

Our workshop facilitators were Mr. Kim Tan and Ms. Hazel Ho of the Improv Company (see <http://improv.sg>). Kim and Hazel began by sharing with the group the three principles of Improv. These are:

1. Keeping a "Yes, and" mindset
2. Making one's partner look good
3. Embrace failure

The rest of the workshop involved engaging in games and exercises which give participants a real physical experience of these principles.

What follows are some of my personal thoughts as to how these principles can enhance the practice of mediation.

### **Keeping a “Yes, and” Mindset**

The exercise that was engaged in to illustrate this was for two partners to plan a birthday party. There were 3 iterations to this exercise. The first was to respond to every idea presented by one’s partner with a “No, but”. The second was to respond to every idea presented by one’s partner with a “Yes, but”. And the final was to respond to every idea presented with a “Yes, and”.

As mediation trainers and practitioners, we have often taught the avoidance of the word “but”. However, this exercise illustrated remarkably the effect of these three iterations. In real experience, all but the last iteration made the communication and planning feel choppy and blocked. The last iteration made the interaction feel smooth and synergistic. Ideas flowed and planning progressed much further in the short time allocated than in any of the other iterations.

The idea here, of course, is to build upon (and not negate) your partner’s idea. I thought this was a valuable principle to keep in mind when working with parties. During a mediation, a party can sometimes say something or suggest an option that is so off the wall that even when we don’t say “No, but” or “Yes, but”, our non-verbals leak this and we end up showing parties (what Buffy the Vampire Slayer refers to as) our “But Face”.

Truly communicating “Yes, and”, not just with our words but also with our non-verbals will make parties feel accepted, willing to share more and be more willing to engage in the process of problem solving.

This principle is also useful when working with a co-mediator. One of the challenges of co-mediation, especially with someone with whom we had not worked together before, is that of building rapport and seamless interaction. A lot of the the time, problems when there is a difference in terms of style, patterns, ideas or frameworks. Learning to accept and build on a partner’s lead can show parties that the co-mediators are working as one unit and instil confidence in the parties about the mediation process.

### **Making One’s Partner Look Good**

To my mind, this flows from the principle above. By accepting and building on your partner’s work, you develop a synergy that makes your partner look good. Of course, the reverse is also true, you must be prepared to let your partner make you look good.

For this to happen, one must be aware. This awareness can extend to the environment, the needs of parties/co-mediators, their non-verbals signals and their emotions. Only when one is aware can we act in a way that makes one’s partner look good. This means that a mediator must be mindful of what is happening in the moment. (This writer has previously explored Mindfulness and Mediation in a previous entry. See <http://kluwermediationblog.com/2015/10/14/mindfulness-and-mediation/>).

Apart from awareness, one needs to also be willing to ask for and accept help. Very often, asking for and accepting help is a challenging thing to do. It is tied up with one’s ego, identity and self-esteem. Because one does not want to look bad, one refused to ask for or accept help, instead blindly muddling through. if we truly abided with the principles of making our partner look good and allowing them to do this for us, then asking for and accepting help will make the co-mediation

partnership stronger.

## **Embrace Failure**

In the field of Neuro-Linguistic Programming, one of its presuppositions is that “There is no Failure, only Feedback” it seeks to take practitioners out of the mindset of failure and to think of every response as a form of feedback with which we can then modify our actions.

I see this principle of embracing failure as trying to do the same thing. Most people don't dare suggest an intervention or try something new because they are afraid of failing. If one embraces failure, then one leaves that fear behind. This is especially when this principle operates hand in hand with the first two principles. Put another way, if you knew that your partner was going to “Yes, and” your ideas and in the process work very hard at making you look good, then why should one be afraid of failure?

There is much more I could say about these 3 principles. There were also micro-principles I took away from the workshop. For example, engaging in active listening or using bodywork effectively. However, I will stop here, save for two concluding thoughts.

First, I think there is certainly much more to explore between Improv and Mediation. I certainly intend to incorporate this segment in my future classes.

Secondly, I hope this has whetted readers' appetite to explore some improv in relation to their own training and practice, not just of mediation but in other areas as well.

### *Post Script*

After the writing of this piece, I became aware of Jeffrey Kirvis' piece on “Whose Trial Is It Anyway? Using Improv to Help Lawyers ‘Present’ More Effectively”. Interested readers may wish to [read it at http://kluwermediationblog.com/2012/02/15/whose-trial-is-it-anyway-using-improv-to-help-lawyers-present-more-effectively/](http://kluwermediationblog.com/2012/02/15/whose-trial-is-it-anyway-using-improv-to-help-lawyers-present-more-effectively/).

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