

---

# What Makes Parties Trust Mediators?

*Jean Poitras*

---

*The relationship of trust between mediators and parties is a key element of the mediation process. This article reviews the trust relationship from the parties' perspectives. A qualitative research methodology was used to identify five key factors explaining why parties trust their mediator: degree of mastery over the process, explanation of the process, warmth and consideration, chemistry with the parties, and lack of bias toward either party. The theoretical and practical implications of the results are discussed.*

---

**Key words:** mediation, trust, mediator conflict, phenomenology.

## Introduction

A consensus has developed among mediation scholars that building trust is a key factor in a successful outcome to mediation (Rousseau, Burt, and Camerer 1998; Poitras, Bowen, and Byrne 2003; Goldberg 2005). Experienced mediators agree that parties' trust in them is a key precondition of their success.

The essential role of trust can be explained in a number of ways. First, when parties trust the mediator, they are able to effectively bridge the gap between them to facilitate the initiation of discussion (Zetzel 1985). Trust also determines whether a party will feel comfortable openly stating his or her needs within a mediation (McCarthy 1985). As a result, parties who distrust the mediator may not provide access to important information

---

**Jean Poitras** is an associate professor of conflict management at HEC Montréal. His e-mail address is [jean.poitras@hec.ca](mailto:jean.poitras@hec.ca).

---

(Butler 1999). Finally, Gary Welton and Dean Pruitt (1987) have shown that parties who perceived mediator bias in favor of the other party were much less accepting of the mediator's actions.

How trust emerges within a mediation is less clear. Certainly, prescriptions about effective mediator behaviors proliferate, but little empirical evidence has validated what really matters. This study's general objective is to empirically identify factors associated with the emergence of parties' trust in the mediator, from the parties' perspective.

## Academic and Practitioner Perspectives on Trust

Because trust between the mediator and parties is a key variable in the mediation process, it is hardly surprising that it has been a popular topic in mediation literature. A review of the literature reveals six major themes:

- *The role of “chemistry” between mediator and parties:* The first theme involves the variables associated with what could be called the “chemistry” between a mediator and a party. Trust may be based on such things as attraction to the mediator. In such cases, personal preferences play an important role (McAllister 1997). For others, a good rapport can also be built when the mediator identifies experiences and values that he or she has in common with the parties (Moore 2003).
- *Mediator’s credibility and reputation:* A second theme involves variables associated with the parties’ perceptions of the mediator’s competence and credibility. In this regard, the mediator’s professional and intellectual credibility can be a significant source of trust (Doney, Cannon, and Mullen 1998; Goldberg and Shaw 2007). The fact that the mediator has been designated by a recognized public authority (e.g., a judge) can contribute to a perception of competence (Poitras and Bowen 2002). Lastly, according to Blair H. Sheppard and Dana M. Sherman (1998), trust may also derive from the mediator’s reputation for settling cases. From this perspective, the mediator’s credibility and reputation can be major assets in inspiring parties’ trust.
- *Mediator neutrality and impartiality:* A third frequently cited factor for trust is the mediator’s neutrality and impartiality (Albin 1993). A perception of impartiality may arise from the perception that the mediator is concerned with finding a just solution (Augsburger 1992). According to Morton Deutsch (1958), individuals are more likely to trust someone if they believe that person has nothing to gain from untrustworthy behavior. It is therefore important for the mediator to show the parties that he or she has no interest in favoring one party over another. In short, the parties will only put their trust in the mediator if they believe the mediator will act impartially.

- 
- *Mediator goodwill and empathy*: A fourth theme found in the literature involves the variables associated with the perception of the mediator's goodwill and empathy (Poitras and Renaud 1997). Similarly, Pruitt (1983) has noted that, to feel at ease, parties must have the impression that the mediator has a positive image of them. Lastly, to feel comfortable, David W. Augsburg (1992) argued that parties must feel that the mediator cares about their concerns. From this angle, the parties will trust their mediator based on his or her "benevolence."
  - *Management of the mediation process*: This theme involves the way in which the mediator manages the mediation process. Variables include the degree to which the parties understand the process, as presented by the mediator (Johnson and Johnson 1989), the role of confidentiality rules in building trust (Bonafé-Schmitt and Robert 2001), and the establishment of the perception that the mediator is shielding parties from abuse during the process (Deutsch 2000). Parties develop trust in the mediator when they trust his or her ability to manage the process.
  - *Becoming used to the mediator*: Studies indicate that the simple act of spending time with the mediator can create a level of comfort and trust (Lewicki and Wiethoff 2000), as can mediator consistency (McKnight, Cummins, and Cherrany 1998). Finally, other scholars argue that trust is established gradually (Davis and Gadlin 1988), indicating that habituation might be a factor.

None of the studies that identified these factors that encourage trust (hereafter known as "trust factors") are based on the perspectives of the parties, however. In fact, most have been based on the opinions of experienced mediators, some are based on third parties/witnesses in the mediation, and others are transpositions from other fields of study, such as psychology or sociology. Because of this, we do not know what really matters to the *parties*.

## Methodology

To better understand what motivates parties to trust their mediator, this study drew on phenomenological methodology. In more specific terms, we analyzed the content of written accounts by disputing parties involved in mediation to define the variables that influence trust. Along with the qualitative analysis, we used statistical analyses to ensure that conclusions are objective and valid.

### *Mediation Context*

The study was conducted in partnership with the *Commission des normes du travail du Québec* (CNT). This organization's mission is to inform the Canadian public about matters surrounding the Labour Standards Act, supervise its application, and receive complaints from employees. One of

---

the organization's roles is to achieve agreement between employers and employees with respect to disputes relating to the application of this act and its regulations. The organization examines grievances dealing with dismissals without cause, forbidden work practices, and psychological harassment complaints. It is in this context that the CNT offers mediation services. The mediation program has existed for fifteen years and has a settlement rate ranging from 70 percent to 80 percent, which is within the range of what is normally seen in the field (Boulle and Kelly 1998).

### ***Data Collection***

Participants were employees and employers involved in workplace disputes that were mediated by a professional mediator from the CNT. All mediators who were invited to participate had to have at least two years of experience as a mediator and had to have been mediating on a full-time basis for at least a year.

Each mediator's main role was to serve as an intermediary between the researchers and parties by systematically distributing questionnaires at the end of each mediation according to a predetermined protocol. Respondents returned their questionnaires to researchers anonymously in prepaid return envelopes. Participants were recruited by thirty-six CNT mediators. The data collection period was approximately two months, running from May 1 to June 28, 2006.

### ***Understanding How Trust Is Built***

Qualitative data collection about the emergence of trust was carried out using the personal account method (Bachelor and Joshi 1986), which consists of having subjects provide a written description of their particular experience. Consequently, at the conclusion of the first mediation session, participants were asked to provide written answers to a question concerning which events, situations, and actions induced them to trust the mediator or, conversely, dissuaded them from trusting the mediator. The question was as follows: "Describe below, in as much detail as possible, how you came to trust, or distrust, your mediator during the mediation session that just occurred." We confirmed the clarity and relevance of the question beforehand with a test group.

To quantitatively assess the parties' level of trust in the mediator, we also used a trust scale comprising three statements:

1. The mediator inspired my trust.
2. I believe the mediator was trustworthy.
3. I felt at ease with the mediator.

For each statement, the parties indicated the degree to which they agreed with the statement, using a Likert-type scale of six points from "disagree strongly" (1) to "agree strongly" (6). (With a Cronbach's alpha of 0.934, the

---

scale's internal consistency coefficient is satisfactory.) We used the scale to divide the parties who responded to the questionnaire into two groups: people with an above-average level of trust and those with a below-average level of trust.

### ***Study Sample***

Once the data had been collected, we retained 105 valid questionnaires for statistical analysis. Our response rate of 48 percent is considered satisfactory for this kind of study. As far as the mediation results are concerned, we note that in 82 percent of cases in which questionnaires were actually returned, mediation led to an agreement. This settlement rate is statistically similar to the average settlement rate of cases mediated at the CNT.

Sociodemographically, 45 percent of the respondents were employers (55 percent are employees) and 28 percent were men (72 percent were women). Respondents' average age was approximately forty. About 37 percent of respondents were university graduates, 21 percent were graduates of a two-year college, and 38 percent had a high school diploma.

Finally, we categorized cases into two groups according to parties' level of trust toward the mediators. We used the average level of trust as the dividing line between the two groups. Of the total of 105 cases retained for analysis, we placed 46 respondents into the low level of trust category (i.e., below-average level of trust) and 59 cases into the high level of trust category (i.e., above-average level of trust).

### **Analysis**

We constructed our inventory of trust factors by analyzing the content of each answer in accordance with four predetermined steps, based on the method developed by Alexandra Bachelor and Purushottam Joshi (1986). To ensure the reliability of our analyses, three independent assessors (graduate students) with previous experience in content analysis examined the completed questionnaires using a four-step process.

In the first step, these independent assessors were required to come to a consensus with each other about the overall meaning of each response (e.g., whether the respondent trusted or distrusted the mediator). The second step involved subdividing the text at each spontaneously expressed new idea. In the third step, we identified the similarities or central themes found in the responses, developing an inventory of the variables that positively influenced the emergence of respondents' trust toward mediators. Finally, for the fourth step, each assessor coded the responses according to that inventory. Assessors' codings were then compared to compute agreement rate. The analysis yielded a consensus among the independent assessors of 90.1 percent, which is considered to be a satisfactory level of interrater agreement (Bachelor and Joshi 1986).

---

### ***Factors' Salience***

A challenge of this survey technique is that it requires that people report their own motivations, of which they may not, in fact, be consciously aware. One of phenomenology's postulates, however, is that people must be aware of their cognition for a change in their attitudes to take place. Because we are concerned with factors that have a major impact on the emergence of trust, we assume that the parties will be aware of such factors when they move from a state of distrust or withheld trust to a state of trust. As a result, we argue that the more strongly a particular factor affects a person's motivation to change his or her attitude, the more likely he or she will be to report that factor.

Therefore, one of the measures of a factor's relative importance (or salience) is the overall frequency with which it was mentioned by respondents. We consider a factor that was reported with above-average frequency to have a high level of salience. Conversely, we consider factors that were reported with below-average frequency to have a low level of salience.

### ***Factors' Impact on Trust***

When a factor actually caused trust to emerge, we assumed that it would thus be mentioned more frequently in cases in which respondents' reported that they developed a high level of trust in the mediator. Conversely, when a factor's impact on trust was not significant, we expected the factor to be mentioned less frequently.

Therefore, for each factor identified during phenomenological analysis, we used a binomial distribution test to determine whether the differences in frequencies between high-trust cases and low-trust cases were randomly distributed (i.e., an equivalent distribution in both groups), which would have indicated that there was no significant association between a particular trust factor and actual trust levels. Therefore, only factors for which we found a statistically significant difference in reporting frequency are considered to have a significant impact.

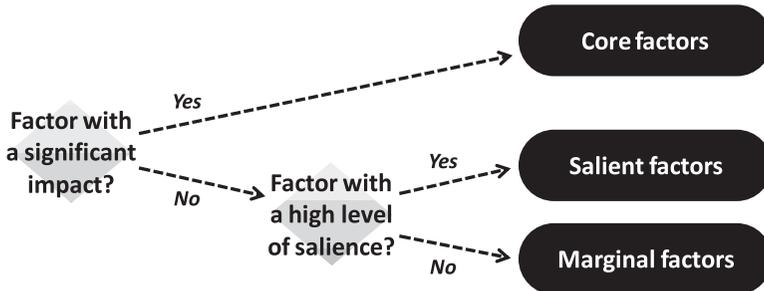
### ***Classification of Factors***

Using our statistical analysis for salience and impact, we were able to sort the factors identified by parties into three categories. First, we classified factors with a significant impact (i.e., frequency significantly different between high-trust and low-trust groups) as "significant factors." Second, factors without a significant impact (i.e., frequency statistically equivalent between trust groups) were subdivided into two categories according to their level of salience. Factors with a high level of salience (i.e., overall frequency above average) are grouped as "salient factors." Factors with a low level of salience (i.e., overall frequency below average) are grouped as "marginal factors." This three-way classification enables us to order factors as core, relevant but not core, and marginal to the emergence of trust toward mediators (Figure One).

---

**Figure One**  
**Categorization Tree for Trust Factors**

---



---

## Factors That Contribute to a Trust Relationship

Phenomenological analysis helped us identify the factors that, from the respondents' perspective, contributed to developing a trust relationship with the mediator. Parties' responses mentioned 2.3 factors on average, and we identified a total of seventeen factors based on the responses. We grouped the factors into three categories according to the statistical analyses: core, salient, and marginal factors. Table One summarizes the factors that our analysis indicates contribute to establishing a trust relationship.

### ***Core Factors***

When a factor's reported frequency in the high-trust group was significantly different from its frequency in the low-trust group, we consider it to have a significant impact. Because we found significant differences between the factors reported for mediations in which greater levels of trust emerged than for those in which parties felt less trust toward mediators, we can assert that while these factors alone cannot account for the trust relationship, they are key elements.

*Mastery.* According to the parties, the mediator can inspire trust through his or her mediation experience, mastery of the case, and self-assurance. The mediator can reassure the parties of her professionalism by carefully reviewed the case prior to mediation and demonstrating her familiarity with it. Referring to past mediations can also demonstrate experience. With a reporting frequency of 35.2 percent, the mediator's mastery was the second most commonly reported factor, occurring 2.1 times more often in cases in which respondents reported a high level of trust in their mediator than in cases where they reported low levels.

**Table One**

**Summary of the Phenomenological and Statistical Analyses**

<b>Variable</b>	<b>Definition</b>	<b>General Frequency</b>	<b>Frequency in Low-Trust Cases</b>	<b>Frequency in High-Trust Cases</b>	<b>Probability of a Random Distribution</b>
Impartiality	The mediator inspires trust by remaining impartial and giving both parties an equal opportunity to talk, without judging.	35.2%	15	22	n.s.
Mastery	The mediator inspires confidence due to his experience with the mediation process and grasp of the case.	29.5%	10	21	0.064
Explanation process	The mediator inspires confidence by explaining some or all of the mediation process to put the party at ease.	27.6%	9	20	0.059
Warmth and consideration	The mediator inspires trust by being warm and showing consideration toward the party.	22.9%	7	17	0.060
Understanding	The mediator inspires confidence through her capacity to thoroughly grasp the facts and the party's perspective.	21.0%	11	11	n.s.
Settlement focus	The mediator inspires confidence through his ability to focus discussion on finding potential solutions.	16.2%	9	8	n.s.
Advice	The mediator inspires confidence by informing the parties about the consequences of their choices, actions or decisions.	12.4%	5	8	n.s.
Legal expertise	The mediator inspires confidence through his knowledge of the law and the legal information he provides.	11.4%	5	7	n.s.

**Table One**  
*Continued*

<b>Variable</b>	<b>Definition</b>	<b>General Frequency</b>	<b>Frequency in Low-Trust Cases</b>	<b>Frequency in High-Trust Cases</b>	<b>Probability of a Random Distribution</b>
Composure	The mediator inspires confidence through her ability to remain calm throughout the mediation process.	11.4%	5	7	n.s.
Chemistry	The party instinctively trusts the mediator as of the initial contact.	10.5%	0	11	0.001
Communication	The mediator inspires trust through his ability to express himself so that the party understands.	10.5%	5	6	n.s.
Choice	The mediator inspires trust by stressing that the parties are not under an obligation to reach an agreement.	7.6%	2	6	n.s.
Help	The mediator inspires trust by letting the party know she is there to help and support her.	6.7%	3	4	n.s.
Welcoming	The mediator inspires confidence because his welcome puts parties at ease.	5.7%	1	5	n.s.
Partiality	The mediator loses one party's confidence by appearing to favor the other party.	3.8%	4	0	0.037
Undue pressure	The mediator loses the party's confidence by trying to force him to do something against his will.	1.0%	1	0	n.s.
Inexperience/incompetence	The mediator loses a party's confidence by not intervening enough or being clumsy in the mediation process.	1.0%	1	0	n.s.

Note: Because this is an exploratory study, the significance level was set at 0.10. Only probabilities below 0.10 are reported. Other probabilities are nonsignificant (n.s.).

---

The mediator's mastery can manifest in a variety of forms. One respondent reported, "On the day of the mediation, she answered all of our questions accurately." Another wrote, "I felt like I could trust, given the mediator's work experience."

It is not surprising that parties felt reassured by the mediator's experience. According to a number of authors, competence and experience are essential to the development of trust in professionals in general (McKnight and Chervany 2001; Mayer and Norman 2004).

*Explanation Process.* When the mediator effectively explains the mediation process to parties, he inspires confidence. Such explanations help parties orient themselves, particularly if they are unfamiliar with the procedure. This trust factor was reported in 27.6 percent of responses and was the third most frequently cited factor. It was mentioned 2.2 times more often in responses by parties reporting a high level of trust than in responses associated with a low level of trust.

The following comment indicates the importance of explaining the process: "At the beginning of the mediation, she [the mediator] explained how everything would work, as we had no idea what the process was." For another party, the fact that there was "a lot of transparency with regard to the process" triggered trust.

Research has shown that when the procedures are perceived as being just, trust tends to increase (Kramer 1999). Explaining the mediation process can nurture a sense of justice in two ways (Poitras and Renaud 1997): an explanation helps put both parties "on the same page" procedurally and it enables the mediator to involve the parties in the process and position himself as a guide.

*Warmth and Consideration.* The mediator can also inspire trust by being warm and showing consideration toward parties. Note that this is similar to empathy, which has been previously identified as a factor that encourages trust, even if the parties did not use this term in their responses. This factor was cited by 22.9 percent of respondents, 2.4 times more often when there was a high level of trust than when there was a low level of trust.

Some respondents reported that their mediator "did everything in his or her power to make everyone feel as comfortable as possible." Another participant referred to the concept of respect, noting that the mediator displayed "respect for the two people involved."

Research indicates that compassion can be a determining feature of trust (Mayer and Norman 2004). Larry L. McKnight and Norman L. Chervany (2001) argued that goodwill and receptiveness are key elements that encourage people to perceive someone as benevolent. And

---

Josephine M. Zubeck and her collaborators (1992) found that empathy was important for establishing trust in mediation specifically.

*Chemistry.* Parties sometimes trust the mediator right from their first contact. We consider that to be “chemistry” — in other words, the mediator’s gaze or tone of voice or other less tangible factors can incite the parties’ trust. The emphasis here is primarily on a feeling, intuition, or instinct. Chemistry was identified as a variable that prompted parties’ trust in the mediator by 10.5 percent of respondents. It is important to note that chemistry only appears in high-trust cases (i.e., no mention in low-trust cases). Therefore, chemistry might be a factor sufficient by itself to make parties trust their mediators.

The parties’ responses clearly indicate that trust can be instinctive. For example, one respondent said that “From the first telephone call with the mediator inspector, I knew I could and should trust him.” Another respondent wrote, “It was instantaneous, as soon as we shook hands.”

These results are congruent with the work of Daniel J. McAllister (1997), who wrote that in mediation trust can be based on a certain attraction to the mediator. Because of this, the party’s personal predispositions can have a significant impact.

*Partiality.* When the mediator seems to favor one party, either by paying closer attention to that person, placing more value on that party’s point of view, or favoring that party procedurally, he or she loses the trust of the other party. Although only 3.8 percent of the respondents in our study flagged this factor as inhibiting their trust in the mediator, our analyses shows that this variable had a significant negative impact on trust. As a matter of fact, partiality only appears in low-trust cases (i.e., no mention in high-trust cases). Consequently, partiality might be a factor sufficient by itself to make parties mistrust their mediators.

Respondents tended to describe partiality in general, not specific, terms. “During mediation,” wrote one party, “I felt like there was some bias toward the employee,” while another wrote, “He was a little tilted toward the employer’s side.”

It is not surprising that partiality is a key factor in inhibiting trust relationships. Welton and Pruitt (1987) showed that parties who perceived mediator bias toward the other party were much less accepting of the mediator’s interventions.

### ***Salient Factors***

Salient factors were those factors that were reported with above-average frequency, but for which we found no statistically significant difference

---

between the responses of the high-trust group and the low-trust group. Although their incidence seems to be associated with the parties' *perception* of trust, we cannot statistically corroborate that their presence is associated with the *actual emergence* of trust. Nevertheless, given their high degree of salience, these factors could be potentially important components of a trust relationship.

*Impartiality.* In the context of mediation, the mediator's impartiality signifies that he or she is giving both parties an equal chance to express themselves without favoring one party at the other's expense. As a factor involved in building parties' trust toward their mediator, this variable was reported in 35.2 percent of responses from study participants, making it the most commonly reported variable. It was not significant, however, because there was not enough of a difference between its frequencies in the two trust groups.

For example, one study participant wrote that the mediator "was impartial and showed no greater interest in the employer or the employee, showing us that we were equal in his eyes." Another participant explained that "a few times, I saw the mediator remain neutral despite the slightly thorny situation." Finally, a third person reported: "At no time did I get the impression that he was taking sides."

Research has shown the importance of such related concepts as justice (Zaheer, McEvily, and Perrone 1998) and impartial management (Poitras and Renaud 1997). Mediators can show impartiality by informing parties neutrally and by maintaining procedural equity in managing the process.

*Understanding.* We use the term "understanding" to refer to the mediator's demonstrated ability to fully understand parties in mediation. Usually, this is shown through attentive listening on his or her part: asking pertinent questions to ensure that he or she completely understands the facts and parties' points of view and verifying that they have said everything they need to say. In all, 21 percent of study participants mentioned this variable, but we found no statistical difference between high- and low-trust groups.

For example, respondents wrote, "During mediation, he reformulated both parties' statements so that everyone understood" and "The mediator really tried to understand the conflict situation in its entirety."

Demonstrating understanding makes each person feel that at least some of his values and beliefs are recognized and accepted (Crawley and Graham 2005). Building a rapport requires understanding what matters in the other party's eyes. A mediator who correctly grasps the parties' points of view will be more likely to earn their trust.

---

*Settlement Focus.* When the mediator's main objective is to settle the dispute between parties we refer to that as a "settlement focus." The settlement-focused mediator brings discussion back to resolving the conflict at every opportunity and whenever the discussion wanders. This variable was cited by 16.2 percent of study participants' responses. There was no statistical difference between high- and low-trust groups.

For example, one respondent wrote: "Every possibility for intervention was considered." Some respondents sensed their mediator's determination to settle the conflict: "I felt a real intention on the mediator's part to settle the case the very day of our meeting."

Research indicates that the belief that each of the opposing parties seeks to resolve the problem promotes a trust relationship (Ross and Lacroix 1996). By extension, a mediator who demonstrates a desire to settle a conflict may promote trust.

### ***Marginal Factors***

Marginal factors were those factors that were reported with below-average frequency. Additionally, for these factors we found no significant statistical difference between respondents in the high-trust group and in the low-trust group. As these factors came up infrequently and are not significant with regard to the emergence of a trust relationship, we suggest that they are marginal to the trust relationship. We therefore describe these factors only briefly.

*Advice.* Some respondents noted that the mediator explained the ramifications of parties' decisions and even the advantages and disadvantages associated with them. For example, they wrote that they were "informed of . . . what would ensue depending on the decisions made by each party" and "[The mediator] explained very clearly what would happen if we failed to come to an agreement." A total of 12.4 percent of parties mentioned this variable as a factor linked to the trust relationship. A number of authors have theorized that some parties seek a proactive mediator who will advise them on finding a solution (Gibson, Thompson, and Bazerman 1996; Mayer 2004). It is possible that for some parties, getting advice from mediators helps build a trust relationship, but we did not find it to be a salient or significant factor.

*Legal Expertise.* The mediators' ability to provide parties' with legal expertise was cited as important by 11.4 percent of parties. Respondents reported that the mediator "transmits his confidence in his technical knowledge of the law" and "was able to explain employment law well." One respondent noted, "My rights were very well explained to me." Researchers have written of the mediator's ability to help parties

---

realistically assess each of their positions and use the knowledge at his or her disposal to encourage them to come to an agreement (Riskin 1995; Goldberg and Shaw 2007), although this was not a salient or significant factor for our respondents.

*Composure.* The mediator's ability to remain calm throughout the process was reported by 11.4 percent of our respondents as a trust factor. "His calm, composed attitude was the most important factor in earning my trust," wrote one respondent. The ability to remain calm and level-headed in stressful and emotional situations has also been identified as an important mediator skill (Honeyman 1993).

*Communication.* Effective communication was reported as a trust factor by 10.5 percent of our respondents. One respondent reported that the mediator "explained the facts to us clearly and precisely." Another wrote, "He inspired trust by using clear, precise remarks." Clear and frequent communications have been found by scholars (Gainey and Klaas 2005) to play an important role in developing trust.

*Choice.* Keeping their options open and not being forced into settlement by the mediator was cited as a trust factor by 7.6 percent of our respondents. "She said she would not force us to do anything," wrote one respondent. According to James Boskey (1994), it is essential for a mediator to put no pressure on the parties, leaving them free to settle or not settle.

*Supportiveness.* The mediator's supportiveness, her ability to convince the parties that she was there to help them during the process, was noted as a factor by 6.7 percent of study respondents. Supportiveness has been pinpointed as having an impact on trust (Mishra 1996; Whitener et al. 1998).

*Welcoming.* "Welcoming" is our term for the mediator's ability to quickly create a climate that puts the parties at ease. While this factor may appear somewhat similar to chemistry and warmth, it is specific to the mediation process or the discussion context (and not to the mediator specifically). For example, one party reported that the mediator knew how to "create a relaxed atmosphere." Welcoming can be associated with the "convening" stage of the mediation process (Picard, Bishop, and Sargent 2004). This trust factor was cited by only 5.7 percent of respondents.

*Undue Pressure.* A mediator's efforts to force parties into a settlement were cited as a factor detrimental to trust development only once in

---

our study. The respondent wrote, "The mediator seemed to be pressuring me to accept an amount by telling me that the other party had cut down a lot, though I can see that's not true."

*Inexperience/Incompetence.* Mediator inexperience/incompetence was also cited as detrimental to trust only once in our study. The respondent wrote, "My impression was that she was very inexperienced. She had to flip through her notes, or the perfect mediator's manual." Both undue pressure and incompetence can diminish the mediator's procedural credibility (Moore 2003).

## **Implications for Theory and Practice**

In our study, we identified five core factors that encourage parties to develop trust toward their mediator. Here, we will first discuss three theoretical impacts of our results and then suggest some practical implications.

### ***Impartiality versus Partiality***

In the professional literature, impartiality has been presented as a keystone of mediation (Moore 2003). Indeed, we found that impartiality was the most frequently reported variable in parties' responses, but it was not significantly associated with a higher level of trust toward the mediator. On the other hand, the partiality variable is significantly associated with a lower level of trust. In fact, our results indicate that a mediator's demonstration of partiality is enough to shatter trust. This result suggests that what matters for a mediator is not demonstrating impartiality but rather avoiding any action or word that could give one party the impression the mediator is siding with the other party.

This result adds an important nuance. When a party perceives partiality in his or her favor, he or she might not report this as a problem. What matters to the parties, therefore, is that the mediator not be perceived as potentially being biased in favor of the *other* party. Furthermore, we are referring to a perceived bias, not to an actual bias of the mediator. Sometimes parties might perceive partisanship where there is none.

### ***Procedural Expertise versus Substantive Knowledge***

In the professional literature, procedural expertise and substantive knowledge are both presented as important mediation skills (Honeyman 1993), although it is unclear which one is more important. The results of our study put considerably more weight on procedural expertise. We found both the mastery and process explanation factors to be both highly salient and to have a significant impact on the degree of trust. On the other hand, we found that the legal expertise and advice factors were not salient and did not have a significant impact on trust. This outcome suggests that it is more important for a mediator to highlight his or her

---

procedural expertise (i.e., knowledge of and facility with mediation procedures) than his or her content expertise (familiarity with the relevant legal issues).

Despite this, we cannot necessarily conclude that content expertise does not matter in mediation overall when such expertise can reasonably be expected to enhance the mediator's ability to understand the issues, ask the right questions, and eventually suggest potential solutions. With respect to the trust relationship, however, we have found that it is the perception that the mediator can manage the conflict and is experienced in the mediation *process* that seems to be the most important factor.

### ***Building Rapport versus Being Proactive***

Some scholars have divided mediators' styles into two broad categories: dealmaker and orchestrator (Kolb 1983). The first type, the dealmaker, seeks largely to achieve settlement and will intervene strongly if necessary to "help" parties move toward an agreement. The second type, the orchestrator, focuses more on building a relationship and developing understanding as a first step toward reaching consensus. In terms of the trust relationship, our study indicates that building rapport is more important than being proactive in seeking conflict solutions. We found that the warmth and consideration variables had a significant impact on the level of trust, while the settlement focus variables had no significant impact. It thus seems that the emergence of trust is more influenced by the mediator's empathy than it is by his or her proactive attitude.

If the orchestrator style seems to be more conducive to building a trust relationship, it may be because the parties need the mediator to compensate for their own poor relationship with each other. In fact, in the context of a conflict, parties often denigrate each others' needs. It is possible that parties respond to a mediator who can improve their relationship. There may be some cases in which the relationship matters less to the parties, however, and cases in which the settlement is more important than the ongoing relationship. In such cases, parties may simply be more likely to trust someone who is nice to them. From both perspectives, when a mediator shows warmth and consideration, he or she is meeting this need and inspires trust.

### **Recommendations to Mediators**

Two recommendations that we believe will help mediators promote the emergence of a trust relationship with their parties emerge from our results. They are:

- *Guide parties and demonstrate your experience as a mediator.* Parties need to know that the mediator will be able to guide them through mediation, a process with which they are typically unfamiliar and one

---

that often leads to impasse. Our results indicated that taking the time to explain mediation and demonstrating experience can be an important step in the trust relationship.

- *Be warm and considerate toward parties but avoid displaying partiality.* Our results indicate that parties want a mediator who is warm and considerate, but it is critical that, in showing empathy, the mediator avoids appearing biased toward one party, which risks losing the confidence of the other party. The art of mediation involves finding that elusive balance between showing enough empathy to win trust, but not so much empathy as to indicate bias.

## Conclusion

The mediation literature indicates that trust between the mediator and parties is a key component of the mediation process. By using a phenomenological qualitative research methodology, we were able to identify five key factors in the development of the trust relationship and three key recommendations for mediators: demonstrate procedural expertise, show warmth and consideration, but do not show a bias toward one of the parties.

A key function of the trust relationship is to enable the mediator to gain access to parties' confidential information, which can help the mediator identify zones of possible agreement and other options for resolution. But before they will provide this information to the mediator, the parties must first believe that the mediator will use the information effectively (procedural expertise), accept the information nonjudgmentally (warmth and consideration), and not use the information against them (partiality). The factors that encourage the emergence of trust thus also foster open discussion and the development of solutions.

Finally, we find it interesting to compare our results with arguments put forth by Charles W. Rossiter and W. Barnett Pearce (1975) in their influential book *Communicating Personally*. Rossiter and Pearce highlighted two key components of a trust relationship: the perception of competence and the perception of goodwill. Our study's results concur. Consequently, we argue that the establishment of a relationship of trust between parties in conflict and their mediator is not substantially different from the establishment of trust in other kinds of relationships.

## NOTES

This study received financial support from the Social Sciences and Humanities Research Council of Canada. The data were collected in collaboration with the *Commission des normes du travail du Québec*. The author would like to thank Diane Beaudoin, Jean-Marc Gauthier, Daniel Langevin, Danielle Laliberté, Guy Laroche, and Jocelyn Girard of the *Commission des normes du travail du Québec* for their contribution to data collection.

---

## REFERENCES

- Albin, C. 1993. The role of fairness in negotiation. *Negotiation Journal* 9(3): 223-244.
- Augsburger, D. W. 1992. *Conflict mediation across culture: Pathways and patterns*. Louisville, KY: Westminster/John Knox Press.
- Bachelor, A. and P. Joshi. 1986. *La méthode phénoménologique de recherche en psychologie*. Québec: Les Presses de l'Université Laval.
- Bonafé-Schmitt, J. P. and J. C. Robert. 2001. *Les médiations: logiques et pratiques sociales*. Working paper, Université Lumière Lyon II.
- Boskey, J. B. 1994. The proper role of the mediator: Rational assessment, not pressure. *Negotiation Journal* 10(4): 367-372.
- Boulle, L. and K. J. Kelly. 1998. *Mediation: Principles, process, practice*. Toronto: Butterworths.
- Butler, J. K. 1999. Trust expectations, information sharing, climate of trust and negotiation effectiveness and efficiency. *Group and Organization Management* 24(2): 217-238.
- Crawley, J. and K. Graham. 2005. *Mediation for managers: Resolving conflict and rebuilding relationship at work*. Clerkenwell, London: Nicholas Brealey Publishing.
- Davis, A. M. and H. Gadlin. 1988. Mediators gain trust the old-fashioned way — We earn it! *Negotiation Journal* 4(1): 55-62.
- Deutsch, M. 1958. Trust and suspicion. *Journal of Conflict Resolution* 2(4): 265-279.
- — —. 2000. Justice and conflict. In *The handbook of conflict resolution: Theory and practice*, edited by M. Deutsch and P. C. Coleman. San Francisco: Jossey-Bass.
- Doney, P. M., J. P. Cannon, and M. R. Mullen. 1998. Understanding the influence of national culture on the development of trust. *Academy of Management Review* 23(3): 601-620.
- Gainey, T. W. and B. S. Klaas. 2005. Outsourcing relationships between firms and their training providers: The role of trust. *Human Resource Development Quarterly* 16(1): 7-25.
- Gibson, K., L. Thompson, and M. H. Bazerman. 1996. Shortcomings of neutrality in mediation: Solutions based on rationality. *Negotiation Journal* 12(1): 69-80.
- Goldberg, S. B. 2005. The secrets of successful mediators. *Negotiation Journal* 21(3): 365-376.
- Goldberg, S. B. and M. L. Shaw. 2007. The secrets of successful (and unsuccessful mediators) continued: Studies two and three. *Negotiation Journal* 23(4): 393-418.
- Honeyman, C. 1993. A consensus on mediators' qualifications. *Negotiation Journal* 9(4): 295-308.
- Johnson, D. W. and R. Johnson. 1989. *Cooperation and competition: Theory and research*. Edina, MN: Interaction.
- Kolb, D. 1983. *The mediators*. Cambridge, MA: MIT Press.
- Kramer, R. M. 1999. Trust and distrust in organizations: Emerging perspectives, enduring questions. *Annual Review of Psychology* 50: 569-598.
- Lewicki, R. J. and C. Wiethoff. 2000. Trust, trust development, and trust repair. In *The handbook of conflict resolution: Theory and practice*, edited by M. Deutsch and P. C. Coleman. San Francisco: Jossey-Bass.
- Mayer, B. 2004. *Beyond neutrality: Confronting the crisis in conflict resolution*. San Francisco: Jossey-Bass.
- Mayer, R. C. and P. M. Norman. 2004. Exploring attributes of trustworthiness: A classroom exercise. *Journal of Management Education* 28(2): 224.
- McAllister, D. J. 1997. The second face of trust: Reflexions on the dark side of interpersonal trust in organisation. *Research on Negotiation in Organisations* 6: 87-112.
- McCarthy, W. 1985. The role of power and principle in getting to yes. *Negotiation Journal* 2(1): 59-66.
- McKnight, D. H. and N. L. Chervany. 2001. Trust and distrust definitions: One bite at a time. In *Trust in cybersocieties*, edited by R. Falcone, M. P. Singh, and Y. H. Tan. New York: Springer.
- McKnight, D. H., L. L. Cummings, and N. L. Chervany. 1998. Initial trust formation in new organizational relationships. *Academy of Management Review* 23(3): 473-490.
- Mishra, A. K. 1996. Organizational responses to crisis: The centrality of trust. In *Trust in organizations: Frontiers of theory and research*, edited by K. Roderick and T. Tyler. Thousand Oaks, CA: Sage.
- Moore, C. W. 2003. *The mediation process: Practical strategies for resolving conflicts*. San Francisco: Jossey-Bass.
- Picard, C., P. Bishop, R. Ramkay, and N. Sargent. 2004. *The art and science of mediation*. Toronto: Edmond Montgomery Publications.

- 
- Poitras, J. and R. E. Bowen. 2002. A framework for understanding consensus-building initiation. *Negotiation Journal* 18(3): 211-232.
- Poitras, J., R. Bowen, and S. Byrne. 2003. Bringing horses to water? Overcoming bad relationships in the pre-negotiating stage of consensus-building. *Negotiation Journal* 19(3): 223-235.
- Poitras, J. and P. Renaud. 1997. *Mediation and reconciliation of interests in public disputes*. Toronto: Carswell.
- Pruitt, D. G. 1983. Achieving integrative agreements. In *Negotiation in organizations*, edited by M. Bazerman and R. J. Lewicki. Thousand Oaks, CA: Sage.
- Riskin, L. 1995. Understanding mediator orientations, strategies, and techniques: A grid for the perplexed. *Harvard Negotiation Law Review* 7: 25-35.
- Ross, W. and J. Lacroix. 1996. Multiple meanings of trust in negotiation theory and research: A literature review and integrative model. *International Journal of Conflict Management* 7: 314-360.
- Rossiter, C. M. and W. B. Pearce. 1975. *Communicating personally*. Indianapolis, IN: Bobbs-Merrill Company.
- Rousseau, D., S. Sitkin, R. Burt, and C. Camerer. 1998. Not so different after all: A cross-discipline view of trust. *Academy of Management Review* 23(3): 393-404.
- Sheppard, B. H. and D. M. Sherman. 1998. The grammar of trust: A model and general implications. *Academy of Management Review* 23(3): 422-438.
- Welton, G. L. and D. G. Pruitt. 1987. The mediation process: The effect of mediator bias and disputant power. *Personality and Social Psychology Bulletin* 13(1): 123-133.
- Whitener, E. M., S. E. Brodt, M. A. Korsgaard, and J. M. Werner. 1998. Managers as initiators of trust: An exchange relationship framework for understanding managerial trustworthy behavior. *Academy of Management Review* 23(3): 513-530.
- Zaheer, A., B. McEvily, and V. Perrone. 1998. Does trust matter? Exploring the effects of interorganizational and interpersonal trust on performance. *Organization Science* 9(2): 141-159.
- Zetzel, G. W. K. 1985. In and out of the family crucible: Reflections on parent-child mediation. *Mediation Quarterly* 7: 47-67.
- Zubeck, J. M., D. G. Pruitt, and P. S. Pierce. 1992. Disputant and mediator behaviors affecting short-term success. *The Journal of Conflict Resolution* 36(3): 546-572.