

### **Fairness, Understanding, and Satisfaction: Impact of Mediator and Participant Race and Gender on Participants' Perception of Mediation**

Charkoudian, L. & Wayne, E.K. (2009). Fairness, Understanding, and Satisfaction: Impact of Mediator and Participant Race and Gender on Participant's Perception of Mediation. *Conflict Resolution Quarterly*, 28(1), 23-52.

### **Multicultural Considerations in Mediation**

Are disputants' perceptions of mediation affected by the gender and/or race of the mediators? Yes, and in very specific ways, as shown in a recent study by Charkoudian and Wayne (2010) that thoroughly explored this topic. The rationale for this study was the understanding that:

A particular "cultural framework consists of ideas about when to fight and when to compromise, notions of self in relation to others, and theories about which third parties are entitled to intervene in problems and in what ways" (Merry, 1987, p.3).

Thus, it can be seen that the cultural background of the disputants and mediators, and the interaction of the backgrounds of these parties, could strongly impact the mediation process.

### **Background: Gender and Mediation**

Previous research has shown that:

- men and women often have different styles of communication and that, simplistically stated, "women are more engaged with the speaker and men more focused on the message" (Tannen, 1990).
- male and female mediation styles may be quite different. While, both genders may demonstrate a similar frequency in their use of mediation skills, such as paraphrasing, summarization and reframing, the ways they use these skills is different; women seem to be trying to clarify, while men are trying to control the mediation process (Wall & Dewherst, 1991; Dewherst & Wall, 1994).
- male mediators tend to be more directive, offering suggestions, or trying to change the parties' positions (Carnevale, Lim, & McLaughlin, 1989).
- perception and expectation of differences between male and female mediator behavioral may be more important than actual gender differences in behavior (Burrell, Donohoe, & Allen, 1988).

### **Background: Race/Ethnicity and Mediation**

Research on mediator race/ethnicity and mediation in a single country is lacking, but some studies have addressed this issue and found conflicting results, including:

- Euro Americans and Asian Americans at a neighborhood justice center demonstrated no significant differences in mediation styles (Goldstein, 1998).
- Israeli mediators from different cultural backgrounds had similar mediation styles (Zarankin & Wall, 2007).
- Gambian mediators from different social or ethnolinguistic groups exhibited striking between-group and within-group differences in their behaviors and attitudes related to mediation (Davidheiser, 2008).
- Previous studies of mediations with participant-mediator matches based on racial/ethnic factors showed little effectiveness of the practice (Fisher & Long, 1991; Viswanathan & Ptak, 1999).

Taking these, and other, considerations together, the authors of the current study wanted to know if, how and to what degree cultural differences in gender and/or race might affect the mediation process, and they addressed the specific questions outlined below.

### **Gender Results**

**What happens when a disputant differs from both mediators in terms of gender (“no gender match”)?**

**What happens in the above scenario when the mediator(s) match one disputant’s gender, and not the other (“other gender match only”)?**

- With “no gender match,” the participants felt that communication was effective in the mediation.
- In “other gender match only” scenarios, the result was very different in that the non-matched disputant felt that the mediation lacked effective communication.
- Additionally, in both scenarios, and it was an even stronger effect in the “other gender match only” condition, disputants felt the mediators were being judgmental and were taking sides.
- Male mediators were more often perceived as taking sides than were female mediators, irrespective of disputant gender.
- Lastly, in the “no gender match” condition, disputants reported lower levels of satisfaction with the mediation process.

Thus, it seems there are complex gender effects on the perception of mediators and the mediation process, and this may be especially negative when a disputant feels marginalized by a match in gender between the other disputant and the mediator(s). Additionally, disputants reported perceived gender differences in mediator style, with males seeming less impartial.

### **Race/Ethnicity Results**

**What happens when a disputant differs from both mediators in terms of race/ethnicity (“no race match”)?**

**What happens in the above scenario when the mediator(s) match one disputant’s race/ethnicity, and not the other (“other race match only”)?**

- In both above race/ethnicity scenarios, there was no effect of race/ethnicity on effective communication, mediator impartiality, or participant’s satisfaction with the mediation process.
- With the “no race match” condition, disputants shared a decreasing sense of optimism over the course of the mediation, lacking hope that the dispute might be productively resolved, and this effect was not seen with the “other match only” condition. (Note: It would have been interesting if the authors had mentioned whether this shared feeling of pessimism was found when disputants matched, or did not match, each other in terms of race/ethnicity).
- In the “other match only” scenario, disputants reported feeling judged by mediator(s), and also felt they had a lack of control in the mediation process.

Although the authors state that there was less of an effect of race/ethnicity match than there was with gender matching, the results seem similar in that disputants’ perceptions may be especially negative when they feel marginalized by a match in race/ethnicity between the other disputant and the mediator(s).

### **Implications for Mediation Practice**

- This study highlights the need for a diverse mediator pool. Having mediators available who are male and female, as well as those from diverse racial/ethnic backgrounds increases the chances that mediators and disputants can be matched in ways that will best meet disputants’ needs.
- This study also points out the importance of using a co-mediator format in order to represent both genders when disputants are of different genders.
- When it is not possible to match mediators to disputants in terms of ethnicity/race, results from this study would suggest that it is best practice to make sure that mediator(s) do not match just one disputant.

**In essence, nobody likes to feel isolated or outnumbered, and this study shows that careful consideration of how mediators and disputants are matched can improve disputants’ perceptions of the mediation process.**

**Summary prepared by Meg Hoskison, ODR Graduate Assistant**