

MEDIATION THEORIES: THEORETICAL UNDERPINNING OR ROAD MAPS?

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Mediation Theories: Theoretical Underpinning or Road Maps?

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ABSTRACT

A significant body of literature describes mediation models as theories. Thru these theories authors attempt to establish a theoretical underpinning for the mediation process. By reference to the physical sciences, and using quantum physics as the context, this article postulates that mediation theories are significantly different in nature to theories in the physical sciences. One example cited is that in contrast to scientific theory, it is an impossible task to test mediation theories against observable phenomena. Additionally, in several important ways a mediation theory shapes, directs and restricts the course of a mediation in a manner that no scientific theory would.

Finally, the author asserts that the fact that the pursuit of a universal theory of mediation is destined to fail, ironically is a positive factor for the future of mediation. In reality mediation theories function as road maps which aid the parties in reaching predetermined goals. By shaping the course of the mediation, the mediation model assists all parties in that quest.

The Elephant and the Blind Men

There is an ancient parable regarding certain disciples who approached Buddha and asked him whether the world is infinite and eternal, or finite and not eternal. The Buddha answered, saying that a raja once instructed his servant to collect men who had been born blind, and then to show them an elephant. Each of the blind men was presented to a different part of the elephant.

After the blind men felt the elephant, the raja went to each of them and asked each to describe an elephant. The men who were presented with the head answered, "Sire, an elephant is like a pot." And the men who had observed the ear replied, "An elephant is like a winnowing basket." Those who had been presented with a tusk said it was a ploughshare. Those who knew only the trunk said it was a plough; others said the body was a grainery; the foot, a pillar; the back, a mortar; the tail, a pestle, the tuft of the tail, a brush.

The Buddha observed the blind men quarreling with each other about the nature of the elephant and stated:

Just so are these preachers and scholars holding various views blind and unseeing.... In their ignorance they are by nature quarrelsome, wrangling, and disputatious, each maintaining reality is thus and thus.¹

One can argue that the proponents of various theories are akin to the blind men in this parable, focusing on an aspect and missing the whole. This paper will discuss the purposes of theories and the impact of theories; firstly in general, and secondly, in the specific area of mediation. It will attempt to satisfy the reader that a mediation theory differs significantly from the understanding of a theory in the physical sciences. First, not unlike scientific theories, mediation theories provide a framework which aids in the understanding of the mediation process. However, unlike a scientific theory, this understanding impacts directly upon

1. Udana 68-69: This is a version of the well-known Indian tale from the Buddhist canon, but some assert it is of Jain origin. Cf. *Tattvarthaslokavartika* 116 at p. 806. Mihir Yast 10.2: Cf. *Analects* 15.5 at p. 1020.

the conduct of the parties and thereby alters the course of the mediation. Second, mediation theories are more than theories. Unlike scientific theories, mediation theories begin with a definition of the ideal outcome and then define a process which facilitates the outcome. Third, I will argue that slavishly adhering to a mediation theory turns a mediator into a blind man and obscures the whole, while focusing upon the part. Finally, paradoxically I will demonstrate that seeing the part and not aiming for the whole is positive and a necessary approach for mediation. Recourse will be made to the physical sciences as to support this thesis.

WHAT IS A THEORY?

Dictionaries provide various definitions of the word “theory”. One definition provided by Yahoo’s American Heritage Dictionary is “a belief or principle that guides action or assists comprehension or judgment.”² Merriam-Webster Online Dictionary offers a similar but more scientific definition: “a plausible or scientifically acceptable general principle or body of principles offered to explain phenomena”.³ Its etymology can be traced from the Latin “theoria” which in turn derives its origin from the Greek “theoria”. This is likely a derivative of the Greek word “theoros”, meaning spectator, which in turn, comes from the Greek word for “a viewing” or “to see”.⁴

It is clear from all definitions that a theory provides a framework which aids one in “seeing” or comprehending a phenomenon.

In the scientific field a significant aspect of theory development is the testing of the theory against empirical facts. There is a continual dance from development, to verification, followed by acceptance or rejection.

What the scientists do to discover the truths of nature is to first take account of the empirical facts regarding some phenomenon. With the further use of human intuition, they then formulate a set of principles that in turn acts as the universals that lead, by logical deduction, to particulars that are to be compared with the empirical facts. If there is a correspondence between these particulars and the empirical facts, one can then say that, thus far, there is an achievement of some new understanding of the phenomenon. The theory is then said to be true to nature. Yet this sort of truth is, in principle, refutable. The discovery of any new empirical facts that do not conform with the alleged “true theory” or the discovery of any logical inconsistency

2. <<http://education.yahoo.com/reference/dictionary/entry/theory>>.

3. <<http://www.merriam-webster.com/dictionary/theory?show=0&t=1317426106>>.

4. *Supra* note 2.