

# CI Arb: Mediation as a multidisciplinary practice

Mediation is likely to be in demand as courts around the world face a COVID-19 backlog

Mediation involves many of the things that we are used to doing in our day-to-day interactions with people, including listening, empathy and communication. In aiming to resolve any disagreements that may arise, we first try to understand the other's point of view. Through dialogue, people try to identify a way forward that they can both agree with. Sometimes this process may involve agreement, sometimes disagreement, but what has just been described comes naturally to us.

Mediators valuably build upon these key skills in helping others resolve their disputes and these skills are often developed within particular fields. Workplace mediation will require a different approach to commercial mediations, as will mediations, for example, in medical negligence cases. While some of the underlying models may be similar, the issues will differ, and this may require technical and specialist understanding.

## Mediation models

There are many models that mediators use in assisting parties to resolve their disputes. Through the facilitative model, for example, the mediator undertakes to enable the parties to articulate the issues as they see them and through dialogue and discussion, reach an understanding that they can both agree with. In the evaluative model, the mediator is more involved in assisting the parties to appraise those issues with a view to deciding if some are more important than others. Under the transformative model developed by Joseph Folger and Robert A. Baruch Bush, parties are helped in transforming their relationship by recognising and appreciating the needs and interests of the other. All three models, and others, are fundamental in enabling parties to reach a settlement in a mediation.



It follows from all that has been said above that mediators draw upon many skills and techniques in helping parties resolve their disputes. As such, interdisciplinarity is crucial to a mediator. Mediators draw from a wide number of disciplines, such as psychology, anthropology, sociology and law, in practicing mediation. For instance, in June 2020, Jane Gunn FCI Arb, a world-renowned mediator, spoke at an event at Chartered Institute of Arbitrators (CI Arb), 'Mediation 2020 and Beyond'. In her presentation, Gunn drew from neuropsychology in describing how she often uses references to the neurotransmitter, oxytocin, in some of her mediations. Oxytocin is a hormone that stimulates affection and Gunn explained, by 'bringing oxytocin in a room', parties can feel at ease. Mediation 2020 and Beyond is available to watch online at [bit.ly/3fF2Hmb](https://bit.ly/3fF2Hmb).

Mediation, like many other disciplines, benefits from drawing from other subjects. In addressing the growth in virtual mediations owing to the COVID-19 pandemic, Gunn also referred to the impact that the absence of the physical body can have on mediations. Philosophy can add

here. Phenomenologists, like Maurice Merleau-Ponty, have referred to the effect that the presence and absence of the body can have on interpersonal relations. It is for this and many other reasons, following on from the theme of 'crisis' last year, the theme of this year's CI Arb Mediation Symposium in December 2020 will be 'Mediation as a multidisciplinary practice'. The symposium can be booked online at CI Arb's website at <https://ciarb.org/events/mediation-symposium-2020/>.

## Growing demand

With courts around the world likely to face a backlog owing to the COVID-19 lockdown in many countries, alternative dispute resolution (ADR) disciplines like mediation will be in huge demand. Mediators possess very important skills and as one of the world's foremost leading ADR bodies, CI Arb is a leader when it comes to mediation training. It runs a highly coveted, six-day face-to-face mediation training course that can lead to membership of the Institute, and the use of the post-nominals, MCI Arb, as well as accredited mediator status.

This programme has now been adapted for virtual delivery. Recognising that virtual delivery is different to face-to-face delivery, the new course has more small group exercises, role plays, and reflective time built-in, together with a workshop on how to build a mediation practice. The new programme, launched in the summer, will be a valuable addition to the face-to-face course.

CI Arb will continue to innovate in mediation. It is looking at various technology related initiatives, including blockchain and artificial intelligence.

Mediation has changed in recent times with the Singapore Mediation Convention enabling settlements to be enforced across borders. Drawing upon a number of softer skills, it is a very important method of ADR. It will become even more crucial as we come out of the lockdown and parties find themselves having to resolve the difficulties that have arisen from it. Mediation provides a significant means for enabling parties to resolve their disputes and the models that underpin a mediation can add tremendous benefit in reaching a settlement. CI Arb believes strongly in promoting a harmonious society in which people can resolve their disputes and is committed to promoting mediation as a form of ADR.

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