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What Place for Parties' Emotions in Dispute Mediation's Discourse?

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ABSTRACT: Looking at mediation sessions' transcriptions, it can be easily observed that mediators try to grant a place to parties' emotions in the discussion. This is useful for conflict resolution, as a change at the emotional level is a prerequisite for breaking the negative spiraling of conflict (Bush and Folger 2005). The author employs Micheli's (2014) linguistic model for identifying emotions in discourse and she discusses the relationship between emotions and argumentation in mediation's discourse.

KEYWORDS: argumentative discussion, conflict's transformation, dispute mediation, emotions, strategic maneuvering

1. INTRODUCTION

In this paper, I refer to dispute mediation as a standardized professional practice, that is part of the Alternative Dispute Resolution Movement (ADR) that started developing in the 1970s in North America¹. Deepening our understanding on how parties' emotions are expressed and how they are taken into account for conflict resolution is pivotal, since "conflict is emotionally defined" (Jones, 2001, p. 90) because "the triggering events that 'cause' conflicts are, by definition, events that elicit emotion" (Jones, 2001, p. 90). This happens because "[e]motion results from a perception that something personally important is at stake" (Jones, 2001, p. 94), which is always the case when we enter a conflict. So, when people first enter a mediation process, they necessarily are feeling many difficult emotions such as fear, rage, sadness, regret. These emotions might lead parties to lose sight of their initial goal of finding a solution and it might push them instead to focus on "destruction" of the other (see Glasl, 2004; Greco, 2020): in worst cases, this leads to dramatic situations in which all parties involved are severely hurt by the final outcome.

Therefore, conflict resolution processes such as mediation can only be successful when they manage to break the negative spiraling of conflict, transforming emotions from negative to positive (Bush & Folger, 2005; Greco et al. 2022). This is fortunately possible, as mediation has proven to be an efficient tool to solve conflicts and there are countless examples of successful cases. But how *does it happens*? In order to understand how parties' emotions change during the mediation process, it is fundamental to analyse the "communicative process" (Greco, 2020, pp. 120 ff., my translation) that takes place during the sessions. Even though non-verbal elements such as smiling can be hints that the way

¹ This is not to say that the findings of this research are completely not applicable to other types of mediation (e.g. informal mediation, school peer mediation) but we lack evidence to make claims in this regard so far.

parties are feeling is changing or has changed, looking only at those is not enough to explain *why* it is changing or has changed. In the following section (2), I will discuss how emotions are expressed by the parties in relation to argumentation in mediation discourse. In section 3) I will discuss the literature on emotions in mediation discourse; in section 4) I will present the data-collection methodology employed for this study; in section 5) I will describe the theoretical model from the linguistic perspective that I employ in the analysis; in section 6) I will present the preliminary findings through the discussion of some examples.

2. EMOTIONS AS ARGUMENTATIVE ELEMENTS IN MEDIATION'S DISCOURSE

From an argumentative perspective, it not unusual to find emotions both in standpoints and in arguments in parties' discourse in mediation. For example, in a conflict between two co-workers, at a certain point one of the parties (G) says: "I clearly feel violated from a financial point of view because they paid him for a job I did". In this case, Giorgia (G) expresses a standpoint in which she claims to feel a specific emotion ("feeling violated") and justifies it with an argument:

1 I feel violated from a financial point of view

1.1 Because they paid him for a job I did

Therefore, the emotion she feels is justified by what she considers a *datum* (in AMT terms, see Rigotti and Greco 2019), that is by a factual premise (the fact that her colleague was given a sum of money in reward for a job that in fact *she* did). But emotions can also be part of arguments, as it is the case for example in a mediation case between two sisters regarding constructions works to be done in the family holiday home that hey recently inherited. In this case, at a certain point, Anna (A) justifies her position with her desire not to feel a negative emotion ("anxiety"):

1 I don't want to invest money to do reparation works in the house we inherited

1.1 Because in order to do it I would need to contract a debt

1.1.1 and contracting a debt makes me anxious

These examples show that parties sometimes verbally express their difficult emotions in mediation sessions. In the next section (3) I will discuss how mediators respond to these expressions of emotions.

3. MEDIATION AND EMOTIONS

A work that I carried out together with two colleagues (Greco, Cigada & Jermini-Martinez Soria, 2022), in which we analyzed seven mediation sessions' transcriptions in French², shows two main ways in which mediators engage with parties emotions: a) when it is not

² These cases are also part of the corpus employed for the analysis carried out in this paper and described in section 4.

already the case, they make parties' dysphoric emotions *explicit*, which is in line with Jameson et al. (2009) observation that "[a] conflict [...] will be transformed only if the underlying emotion is explored and discussed" (Jameson et al. 2009, p. 169); and b) they show parties, typically towards the end of a session, a trajectory of their emotions from negative ones to more positive ones (see Greco, Cigada & Jermini-Martinez Soria, 2022). We interpret these mediators' moves as part of their "strategic maneuvering" (van Eemeren 2010), in particular as "presentational devices" (Greco, Cigada & Jermini-Martinez Soria, 2022, p. 4).

However, in spite of the important role emotions play in the development of conflicts and consequently in dispute mediation, few studies discuss it (see Jones, 2006, p. 284). Jameson et al. (2010) also point out that mediators are provided few guidelines on how to deal with parties' emotions (Jameson et al., 2010, p. 25). Jones mentions "only two studies [that] have actually investigated how emotion may impact the mediation process or perceptions of mediation". The first one, carried out by Thompson and Kim (2000) "demonstrated that negotiators' expressed emotions could impact the ability of third parties (e.g. mediators) to develop accurate perceptions of the negotiators' interests and intentions" (Jones, 2006, p. 284). The second one, carried out by Friedman et al. (2004), analyzed "data from actual online mediation" (Jones, 2006, p. 284) to investigate whether expressing the emotion of anger impinges or not the mediation process (Jones 2006, p. 284). Jameson et al. (2010) analyze eight simulated mediations and they identify five strategies mediators use to regulate parties' emotions ("grant legitimacy, encourage emotion identification, confront avoidance of emotion, paraphrase emotion and encourage emotional perspective taking": Jameson et al. 2010, pp. 25-26).

Moreover, "there are few discursive studies of emotion in mediation" (Greco, Cigada & Jermini-Martinez Soria 2022, p. 5). This is problematic because, as Greco (2020, p. 120) observes

in order to understand how emotional orientation may be transformed in the mediation process, and the role of mediators in this process, it is necessary to look more closely at the talk taking place in interactions (Greco, Cigada & Jermini-Martinez Soria, 2022, p. 5).

With this work, I am trying to contribute to filling this research gap.

4. METHODOLOGY: DATA COLLECTION

I analyzed a multilingual corpus of role-played mediation sessions' transcriptions, composed of seven cases in French and three cases in Italian³. The mediation cases included in the corpus are cases of interpersonal conflicts of different kinds (e.g.

³ Most of the corpus was collected in the context of my PhD dissertation "*Reframing as an argumentative competence in dispute mediation*" (Jermini-Martinez Soria, 2021) within the SNSF-funded research project "RefraMe" (project nr. 10001C_17004/1, "The inferential dynamics of reframing within dispute mediators' argumentation", 2017-2020; applicant: Sara Greco). The third case in Italian was collected in the research project "Quelle place pour les émotions des parties dans le discours en médiation des conflits?" (Funded by the Empiris Foundation – research grant Jakob Wüest attributed to Dr Chiara Jermini-Martinez Soria for the duration of one year). This entire corpus is, to my knowledge, the first and only corpus collected in Switzerland so far of these kinds of data.

neighbourhood conflicts, workplace conflicts). All the mediators that participated in the role-plays are certified professional working in Switzerland at the time of data collection.

Since mediation is an extremely confidential process, it is almost impossible to collect data from real mediation sessions (see for example Donohue, Allen & Burrell, 1988, p. 134). For this reason, role-plays have been since long employed by scholars working on dispute mediation and considered a valid alternative to natural data. Jameson et al. (2014) observe that “[there is] precedent for the use of simulations for the study of natural linguistic phenomena, such as apologies (Demeter, 2007) and invitations (Rosendale, 1989)” (Jameson et al., 2014, p. 213). Janier and Reed (2017) analyze mediation discourse in a “mock-mediation”. They argue that “the case presented and the mediation are realistic and can be exploited for the fulfillment of [their research] task”, because “[it]was originally created for training mediators” (Janier and Reed, 2017, p. 46) and because it was mediated by “graduate mediators” (Janier and Reed, 2017, p. 46). Van Bijnen claims that “[using role-plays is] a functional solution that has become standardized in studies on mediation discourse from a conflict resolution and argumentative perspective” (van Bijnen, 2020, p. 64).

Since the goal of this work is to analyze how mediators react to emotions that parties convey through *semiotization* (Micheli 2010, 2014), role-plays are a valid way to try to answer to this research question, since it can be hypothesized that when confronted with a party that for example express feeling unease with the situation (see example from mediation case “parking conflict” in section 6 below), mediators will react in the same way they would when confronted with this same situation in their professional practice. Moreover, role-plays are frequently used in the training of professional mediators (see for example Greco Morasso, 2011, p. 149 *ff.*).

The corpus has been transcribed using a methodology adapted from Traverso (1999), taking into account also ICOR conventions⁴, according to which non-verbal aspects (such as for example pauses, shouting, gestures) can have an interpretative value when analyzing the data.

5. DATA ANALYSIS: MICHELI’S MODEL

I employed a theoretical model developed by French linguist Micheli, building on Plantin’s work (Plantin, 1999). Micheli distinguishes emotions according to their *semiotization*: *said emotions* refer to “lexical items indicating an emotion” (Micheli, 2014, p. 23, my translation); *shown emotions* refer to “phrases that show emotions through elements interpreted as hints” (Micheli, 2014, p. 25, my translation), such as for example “prosodic characteristics” (Micheli, 2014, p. 27, my translation); *argued emotions* refer to cases in which “the discourse proposes [...] a *representation of a situation*” (Micheli, 2014, p. 29, my translation) that leads listeners or/and readers to “*infer* that a specific emotion is indeed present. [...] This inference [...] happens because the represented situation is conventionally associated with a specific emotion” (Micheli, 2014, p. 29).

⁴ http://icar.cnrs.fr/ecole_thematique/tranal_i/documents/Mosaic/ICAR_Conventions_ICOR.pdf

This model presents the advantage that it allows to analyse emotions in discourse “*without presupposing that the speaker actually feels that emotion* (even though that can obviously also be the case” (Micheli 2014, p. 18, my translation). In fact, “if we say that a speaker ‘semiotize’ an emotion, we only indicate that he or she makes an emotion manifest through the use of signs (Micheli, 2014, p. 14, my translation). This is an important characteristic of the model, because linguists do not have the tools to actually *claim* that a speaker is indeed feeling an emotion, as other expertise (e.g. in psychology) would be required.

6. FINDINGS

The analysis carried out so far presents two main preliminary findings. Firstly, it shows that mediators transform in “said emotions” what parties introduce in the discourse either as “shown emotions” or as “argued emotions”. Consider the following excerpt from a family mediation case revolving around complex issues that involve a loan of a big amount of money:

- 171 T j’aurais pas dû faire ce que j’ai fait ⁰ça se répare pas voilà⁰
I shouldn’t have done what I did ⁰it’s something that cannot be repaired⁰
 172 M2 vous regrettez ce qui s’est passé entre vous deux ↑ c’est ça que vous dites ↑
Do you regret what happened between you ↑ is that what you’re saying ↑

At turn 171, Tom (T) describes how he evaluates his actions of the past, namely as something that he “shouldn’t have done” – which is a way of viewing things that we typically associate with the emotion of *regret*. Therefore, we are in presence of an argued emotions according to Micheli’s model. In the immediately following turn (172) the mediator (M) asks Tom whether he “regrets” what he did, pointing out that it is a request of confirmation that he understood correctly (“is that what you’re saying?”). To do so, the mediator employs a verb, “regret”, that directly describes an emotion. Therefore, the mediator here transforms what Tom introduced in the discourse as an “argued” emotion in a “said emotion”.

This operation of transformation is a prerequisite for mediators to be able to carry out two other important tasks, that I have discussed in a previous work together with two colleagues (see Greco, Cigada & Jermini-Martinez Soria, 2022, p.1): a) make parties’ negative emotions explicit and b) show parties’ a trajectory of their emotions from negative to positive. All these mediators’ moves are useful for conflict resolution because they clarify the core of the conflict, empower the parties as co-arguers and make emotions parts of an argumentative discussion (see Greco, Cigada & Jermini-Martinez Soria, 2022, pp. 14 *ff.*).

From an argumentative point of view, here the emotion is part of a standpoint justified by an argument. In fact, Tom’s reasoning can be reconstructed as follows:

- (1 I regret doing what I did)
 1.1 Because it is something that cannot be repaired

The argument he provides is intrinsically linked with the semantics of the verb *regret*: in fact, it is a verb that implies that one wishes something to have happened differently in the past – and the past by definition cannot be changed.

Secondly, the analysis shows that, when parties introduce emotions in the discourse (be in the form of “said”, “shown” or “argued” emotions), in some cases mediators invite them to develop the discourse around emotions whereas in other cases they prefer to talk about something else. Examples of these two scenarios are presented in the following two excerpts:

Turns 38-41 mediation case “Parking conflict”: P = Patricia; L = Linda; M = mediator

38 P oui parce-que depuis effectivement depuis que ça s’est passé on (.) c’est presque un peu on évite de d’arriver au même moment on on s’évite (.) cordialement on va dire

yes because after after that happened (.) it’s almost we avoid to arrive at the same moment (.) we avoid each other politely we could say

39 M vous ressentez aussi ça vous↑
do you also feel this way ↑

40 L ⁰oui oui⁰ je sens aussi cette () un peu de la gêne
⁰yes yes⁰ I also feel this () a bit of annoyance

41 M de la gêne donc c’est quelque chose d’inconfortable pour vous ces ces jours-ci

annoyance so it’s something uncomfortable for you these these days

Turns 60-61 mediation case “roommates rent conflict”: S = Sophie; M = mediator

60 S et là on est en train de me dire qu’elle va aller vers le nouveau propriétaire et là il y a un petit conflit (.) moi je me sens plus à l’aise et je crois pas que je peux continuer à payer ce qu’elle me réclamera

and now she’s telling me that she’s going to (tell) my new landlord and we have a small conflict (.) I don’t feel comfortable anymore and I don’t think that I can continue to pay what she’s going to ask me

61 M pour vous vous avez aucune obligation de continuer à payer parce que il n’y a pas de contrat à la base↑

so for you you do not have any obligation to pay rent because you don’t have signed a contract ↑

In the first excerpt (mediation case “parking conflict”), Linda (L), one of the parties in a neighbourhood conflict around the use of a common parking lot, express (turn 40) that she still feels a bit unease after she entered a conflict with her neighbour Patricia (P). In the following turn (41), the mediator repeats the specific term employed by Linda to describe her feelings (“annoyance”) and adds a comment (“so it’s something uncomfortable for you these days”) that shows her attentive listening and her interest in this particular aspect, i.e. Linda’s current way of feeling. Argumentatively, here Linda’s emotion is part of her standpoint (1 I feel a bit of annoyance).

In the second excerpt (mediation case “roommates rent conflict”), one of the parties’, Sophie (S), also expresses feeling discomfort in the conflictual situation she is in (“I don’t feel comfortable anymore”, turn 60). The emotion is part of her standpoint, justified by the fact that she has a conflict with her roommate:

1 I don’t feel comfortable anymore [living here]
1.1 Because I have a conflict with my roommate

However, in this case, the mediator chooses to ask a question (at turn 61) about another element that she brought into the discussion, namely the fact that she does not think that she will be able to keep paying her rent.

7. CONCLUSION

The empirical analysis of transcriptions of mediation sessions’ cases shows that dispute mediators intervene in a variety of ways to deal with conflicting parties’ emotions; these different ways, however, have in common the fact that they are intended to foster conflict resolution – and choosing to employ one instead of the other can have a significant impact on the mediation process. In fact, if for example a mediator chose to dig deep into a party’s emotions in a phase of the mediation where this is not the suitable course of action, the consequences could be negative.

Moreover, the analysis shows that emotions (either said, showed or argued) can be either part of standpoints or of arguments in the parties’ discourse. This is particularly important as unfortunately emotions are sometimes viewed as disconnected from reason, whereas in fact they can indeed *be* reasons to justify courses of actions or be *justified* with solid arguments.

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