Improving Mediators Decision Making by Becoming Conscious of the Unconscious

Reflective Practice for Attaining Implicit Social-Psychological Goals

Tzofnat Peleg-Baker
Rutgers University
School of Business–Camden

December 2014*

Abstract

Drawing on research on decision-making, expertise, and cognitive psychology, I make a case for cognitive, relational reflection to improve mediators' decision-making. I propose that automatic, intuitive decisions may dominate mediators' judgment in dynamic, fast-paced, and uncertain mediation circumstances and may be faulty. Furthermore, despite their automatic nature, these intuitive judgments could improve. I propose that their quality could improve by an interplay between conscious and unconscious through engaging in conscious, reflective practice. Reflective practice could benefit a complex range of intangible social-psychological outcomes that have been typically overlooked in mediation, including parties' feelings about themselves, relational matters, and process-related issues. Cognitive processing underpinning automatic, unconscious decisions are reviewed to support these propositions and to show that learning and other conscious activities play a pivotal role in shaping automated decisions. Reflective practice offers an opportunity to experience the two conditions suggested by Kahneman and Klein (2009) for improving the quality of intuitive judgments: 1) An environment that provides constant exposure to regularly repeated cues, and 2) opportunities for learning the environment. Examples from a study on mediators' work we conducted a few years ago support the significant role of reflective professional development. Research conducted in management and medicine is also discussed to support structured reflection for improving practice. In this case, the goal is to improve mediation's outcomes by helping mediators improve the quality of their intuitive, automatic judgments. An example of one of the four SRI—Structured Reflective Instrument sections the author developed to help enhance third-party or mediators' work is provided in the Appendix.

Tzofnat Peleg-Baker is a scholar-practitioner who returned to academia after two decades of advancing democratic reforms in the educational system, leading transformative organizational processes, and teaching conflict engagement, and mediation. She earned a Ph.D. in social psychology with a specialty in conflict transformation from Vrije Universiteit, Brussels. She also earned a Ph.D. (ABD) and M.A. with a focus on conflict and mediation in 2013 from Rutgers University, NJ. Her research has been located at the intersection of social, cognitive, and developmental psychology. Her interdisciplinary dissertation offers contextual-relational considerations to conflict transformation: from adversarial interactions to dialogic relations and is informed by conflict and peace studies, psychology—defensive reactions and implicit biases, and decision-making, human development, communication, social construction and philosophy, learning and education, diversity and inclusion, organizational development, and leadership. Tzofnat is the author of professional and academic articles and book chapters. She teaches conflict and negotiation professional MBA students in the school of Business at Rutgers University-Camden, and diverse populations in topics around conflict, dialogue, and diversity and inclusion in academia and organizations and served as a mediator on numerous commercial and community cases for over two decades. As a Board Member and facilitator in non-profit peace organizations, she led inter-group dialogues in the Middle East, Africa, and Europe. As the Head of the Strategic Department of the Conflict Resolution and Mediation Center at the Israeli Ministry of Justice, she served on the national team that introduced ADR and mediation in the country. Tzofnat also was a member of the democratic movement in Israel where she led democratic and dialogic educational reforms in public schools. Her practice combines building dignity and respect-based relationships, using reflective models and participative social environments.

INTRODUCTION

Peleg-Baker, T. Improving Mediators' Decision-Making by Becoming Conscious of the Unconscious.
DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

Mediators help parties navigate their disputes within dynamic, fast-paced circumstances in which they are constantly dealing with novel and unpredicted situations. They serve various clients positioned in a difficult place clouded by intense, negative emotions. Research confirms that parties and negotiators are highly interested in attending a wide array of social-psychological issues beyond tangible ones, including implicit goals like their feelings about themselves, relational matters, and process-related (Curhan, Elfenbein, and Xu 2006). Despite their significance, these social psychological issues are often overlooked (e.g., Bush and Folger 1994; Monk and Winslade 2001; Charkoudian et al. 2009; Picard 2000; Peleg-Baker 2012; Peleg-Baker et al. 2012). The following are considerations—by no means an exhaustive list that may have contributed to the insufficient attention given to these mostly implicit social-psychological matters:

1. **A Complex understanding of mediation practice is at its infancy phase**. Mediation is an emerging profession with no agreed-upon criteria to assess mediators' expertise. Mediation literature is abundant but fragmented, covering topics such as the advantages of using mediation, mediation conditions and contextual influences, strategies, tactics, and styles (Wall and Chan-Serafin 2010; Kressel 2006; Pruitt 2012). Still lacking is a comprehensive account of diverse and implicit goals and outcomes and the nuances of mediators' judgments. As mediation becomes widely accepted and professionalism more in demand, a deeper, more complex understanding of the practice beyond explicit goals is essential.
2. **Lack of Evidence-Based Practice**. Mediation practice is often not evidence-based (Weiner 2012), and although mediation is a dynamic field of practice and research, social-psychological research on mediation has dwindled considerably (Pruitt, 2012). Pruitt was able to find only several studies (Conlon, Moon, and Ng 2002; Kressel & Gadlin 2009), and another study by Kressel and colleagues (2012).
3. **Automatic Intuitive Decisions**. Based on research on experts' decision-making that shows that their decisions are dominated by automatic and intuitive judgments, especially under pressure and in uncertain environments (Simon 1992; Bodenhausen and Todd 2010; Deutsch and Strack 2010; Evans 2011), it is reasonable to assume that mediators' decisions is no different. Mediators make decisions within a dynamic, uncertain context. In such an environment, tangible objective outcomes, e.g., mutually

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

satisfactory solutions, settlements, or agreement-making, take priority (e.g., Bush and Folger 1994; Picard 2000; Charkoudian et al. 2009; Kressel 2009). The result is lower attention to social-psychological outcomes.

4. **Implicit Social-Psychological Dimensions**. The naïve mediator might not be fully aware of or trained to deal with multiple, fast shifting subtle, and emotionally laden social-psychological dynamics that continuously play out in mediation. Furthermore, many mediators come from a legal background, or mediation may be their secondary profession; consequently, they might lack skills to address complex, often implicit relational-psychological matters. I discuss this challenge later, in the section on the Automaticity and Overestimation of Mediators' Decisions.
5. **Insufficient Emphasis on Continuing Learning and Reflective Practice.** The implicit factors presented in the previous consideration require high-order capabilities of understanding and responding to multidimensional, underlying issues that drive the conflict. Although continuous education is crucial for professional development, it is not prevalent in the field. Instead, initial, formal, and short-term mediation training is typical and, in many cases, limited to the basic forty hours of the certificate program (e.g., Hedeen, Raines and Barton 2010; Kressel et al. 2012). Additionally, mediation training focuses primarily on the acquisition of techniques and skills and focuses on agreement making rather than on personal and professional continuous transformation through reflection.

Taken together, mediators might miss underlying factors driving destructive conflict as their attention is automatically given to explicit, substantive issues. Additionally, expertise development is not well established in the field. Considering the inevitability of automaticity of mediators' intuitive decisions, an important question is whether and in what ways mediators could improve the quality of their judgments, especially in attaining social-psychological goals. Before I address this question, I present the concept of social-psychological goals.

Intangible Social Psychological Goals

There are many understandings of mediation, and there is no agreement among scholars about its goals. Inspired by Kressel and Pruitt (1989), and Wall, Stark, and Standifer (2001), I view mediation as a

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

process in which an acceptable third party assists parties to negotiate their differences. Parties and negotiators often express great interest in a wide range of social psychological goals. They are not only interested in solving problems and reaching agreements, but also concerned about their positive feeling about themselves, relational matters, and process related matters (Curhan et al., 2006; Curhan et al., 2010). Similarly, mediators often describe their approach to mediation as eclectic and state solutions and relational goals as essential to pursue in mediation (e.g., Picard 2000; Charkoudian et al., 2009; Peleg-Baker, 2012a). Despite their broad intention to cover various issues, mediators have been observed focusing primarily on tangible outcomes, like reaching settlements and agreement making while relatively neglecting social-psychological goals relating to relationships and identity (e.g., Picard 2000; Charkoudian et al. 2009; Peleg-Baker et al. 2012).

As mediation is increasingly recognized and in demand, a deep, more multifaceted understanding of its practice is vital. Mediation styles provide mediators with explicit top-down guiding principles and some structure to follow. However, research on styles does not explore the processing of mediators' decision-making. Moreover, literature on styles reinforces dichotomic thinking (Silbey & Merry, 1986; Kolb, 1994), like facilitative versus evaluative (Riskin, 1996), problem-solving versus transformative (Bush & Folger 1994). Combined with mediators' emphasis on tangible matters and agreements, styles may be too simple of frames for understanding the complexity of mediation processes and mediators' judgments, particularly their management of emotional, social-psychological issues.

Though tangible difficulties dominate mediation and negotiation, emotional identity-relational aspects drive the conflict. Scholars have been challenging the rationalist approach to mediation and negotiation as economically driven processes (Thompson, 1990; Curhan et al., 2006). Thompson proposed two types of negotiation outcomes: economic—the explicit terms or products such as agreements or division of resources, and social-psychological, based on social perception and include three aspects--perceptions of the situation, the other party, and oneself (Thompson, 1990).

In four studies, Curhan and colleagues (2006) point at the significance of social-psychological outcomes for negotiators. They explored a range of social-psychological outcomes as they are valued

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

subjectively by negotiators. The researchers asked widely diverse populations to express their valuable subjective outcomes of the business and personal negotiations and rate them in open-ended questions. Using various inductive and deductive methods, valuable outcomes were systematically identified and classified into four factors framework they termed the Subjective Value Inventory (SVI): negotiators' perceptions of tangible, the self, process, and relationship outcomes. Intriguingly, though participants mentioned objective, tangible outcomes, such as agreements, more frequently than other goals, the importance of these issues was not higher than social-psychological outcomes such as relationship quality, face-saving, fairness, listening, and positive emotions.

Additionally, one in five participants did not mention any tangible outcomes at all. Interestingly, in a sequel two-round negotiation study, social-psychological outcomes in the first negotiation were a better predictor than tangible outcomes, such as reaching an agreement, of the desire to negotiate again with the same counterpart, and of the tangible outcome in the second negotiation (Curhan et al., 2010).
Emerging new approaches to mediation in the mid 1990's pointed to the significance of relational and transformative outcomes (e.g., Bush & Folger 1994; Winslade & Monk 2001). Moreover, self-reports reveal mediators' aspiration to use diverse styles, not just a single one, and to attain assorted goals, including psychological and relational (Picard 2000; Charkoudian et al., 2009; Kressel et al., 2012; Peleg-Baker, 2012;). For example, an exploratory study of mediators-instructors identified three patterns of styles: pragmatic settlement/ problem (25%); socioemotional, humanistic, and relational (21%); and mixed-pragmatic and socio-emotional (54%) (Picard, 2000).

Although mediators hope to mix styles to attain diverse socioemotional outcomes, observational studies show that typically mediators are still oriented toward agreements and overlook intangible goals (e.g., Charkoudian et al., 2009; Peleg-Baker et al., 2012;). This inclination was also confirmed by lab studies (Kressel et al., 2012; Peleg-Baker et al., 2012). Mediators were first interviewed and completed questionaries about their styles and goals for the mediation and then were observed by a team of researchers mediating a conflict. Despite their explicit pre-mediation statements to address identity and relational outcomes, they invested most of their time mediating to help parties reach agreements and paid. To

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

conclude, while negotiators, mediators, and parties express a strong desire to explore a broader range of outcomes, their attention is primarily on substantive matters. The gap between their aspiration and practice leads to the question of whether mediators' could improve their skills to address a wide-range of relational and identity goals effectively. Before discussing possibilities to improve mediators' skills, I present the topic of decision-making that could shed light on the nature of mediators' judgments.

The Automaticity of Mediators' Decisions

When watching a video of their mediation, mediators participating in the lab studies mentioned above were frequently surprised to discover actions they did not remember. One mediator said that after watching his mediation, he did not remember many of his actions and explained that a lot of what he did was intuitive (Kressel et al., 2012; Peleg-Baker et al., 2012). Many decisions were defined by three researchers, observers as unsuitable for the situation and in contrast to the intentions mediators stated before the mediation. A mediator who described her work as facilitative and emphasized win-win solutions in her pre and post-interviews primarily sought compromise and started doing so early in the mediation. In most mediation observed, mediators did not explore underlying concerns; thus, they were unable to help the parties develop win-win solutions.

A mediator who described himself in a pre-mediation interview as diverse and expressed an intention to uncover underlying issues, exploring win-win solutions, express empathy toward the parties, validate them, and help them improve their relationships, eventually led simple, linear, and pragmatic process. Early on, he pushed the parties to a compromise. He discussed only explicit content issues and dismissed or ignored any expression of emotions. Another mediator who also presented himself as eclectic in the pre-mediation interview and hoped to help the parties improve their relationship, talked about providing counseling, if needed, and promised not make any decision for the disputants, was observed using an evaluative style and was judgmental with no tolerance for relational or emotional matters. In most cases, mediators seemed to be automatically oriented toward substantive issues and agreements.

Evidence for automatic, unconscious processing in everyday life (Jacoby, Lindsay & Toth, 1992; Bargh & Chartrand, 1999; Westen, 1999), and in decision-making is widespread and has been rapidly

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

growing (e.g., Simon 1992; Bodenhausen and Todd 2010). Though automatic, unconscious judgments are efficient for adaptive behavior, some can be futile and prone to systematic biases and flaws (Kahneman, 2011; Nisbett & Ross, 1980), especially in uncertain, stressful settings (Kahneman, Slovic & Tversky, 1982; Kahneman & Klein, 2009; Kahneman, 2011; Tversky & Kahneman, 1974) as in conflict situations and the context of mediation.

Experts are often unaware of their implicit cognitive model guiding their behavior (Simon, 1992). Studies on implicit social cognition indicate that a multitude of mental sub-processes are part of most behaviors without the individual being aware of them (Deutsch & Strack, 2010). Implicit attitudes, beliefs, and stereotypes shape behaviors, which sometimes negates peoples' intentions (Wilson, Lindsey & Schooler, 2000; Deutsch & Strack, 2006). Similarly, observational studies on mediators' work point at the domination of automatic, intuitive decisions (Kressel et al., 2012; Peleg-Baker et al., 2012). Mediators seem to automatically pay attention to explicit tangible issues, such as settlements and agreements.
Automatic, intuitive judgments are by their nature unconscious, fast, and involve an associative match (Simon, 1992). Simon described intuitive decisions as "analyses frozen into habits and the capacity for rapid response through recognition" (Simon, 1992: 139). Though many intuitive judgments are proficient and successful, it is not the case for all decisions. Crucially, people often have no way to know the origin of their intuitive judgments and whether these decisions are faulty or skilled (Kahneman & Klein, 2009).

Overconfidence Bias

People also overestimate their ability to make sound judgments (Carroll, Sweeny, and Shepperd 2006) and are often overconfident even though their decisions are lacking (Kruger and Dunning 1999). Likewise, it has been claimed that experts, termed pseudo-experts, who have acquired expertise in one aspect of a domain but lack adequate knowledge in another aspect of that domain, might experience an illusion of validity—overconfidence in dealing with issues they might have little aptitude for (Kahneman & Klein, 2009). Similarly, Mediators in laboratory studies conveyed high confidence in their work despite admitting, in post-meditation interviews, that they failed to achieve their prospective stated goals (Kressel et al., 2012; Peleg-Baker et al., 2012). For example, lawyers-mediators expressed high confidence in their mediation

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

abilities. However, despite their ample knowledge of legal aspects, they exhibited relatively weak skills in handling latent psychological subtleties and relational dynamics. For the most part, they did not recognize it nor reflected on it even when given an opportunity to do so in a post-mediation interview after watching a recording of their mediation session (Kressel et al., 2012; Peleg-Baker et al., 2012). A divorce lawyer who indicated in the pre-mediation interview that process and psychological goals are essential struggled to address them. She intuitively recognized the prominence of underlying emotional, psychological dynamics and wanted to empower parties and help them untangle these issues but did not succeed. Instead, she powerfully concentrated on agreement making while dedicating limited time to intangible goals. She led an intense, erratic, unstructured, and unbalanced mediation. Though she expressed dissatisfaction and was highly self-critical of her performance, [1] she nevertheless remained extremely confident in her superior mediation abilities. [2]

Increasing awareness of a wide range of mediation outcomes and acquiring skills to address them is critical for mediators who want to pursue issues beyond substantive matters. Mediators' overconfidence in their ability to carry out subtle social-psychological is likely to impair their ability to learn and expand their skills. Let us see next how these unconscious concerns might be approached.

Why Reflective Practice? The Quality of Automatic Decisions Relies on Conscious Thought

The Interplay between Consciousness and Unconsciousness. Although automatic, intuitive decisions appear involuntary and may be perceived as uncontrollable, they do not happen in a vacuum. Automatic decisions are informed by particular experiences (Dreyfus and Dreyfus 1986; Bodenhausen and Todd 2010). Our experiences shape their quality of our choices. Thus, their quality could improve by conscious activity. To fully recognize this assertion, it is vital to understand the interplay between consciousness and unconsciousness. The claim that consciousness is entirely in charge of directing and controlling behavior has been under much criticism since Freud; some even doubt whether conscious thought is useful at all (Bargh and Chartrand 1999; Nisbett and Wilson 1977; Bos, Dijksterhuis, and Baaren 2008; Wegner 2002).

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

Critiques of conscious thought include its low value and unreliable nature due to frequent false conscious understandings and wrong behavioral explanations (e.g., Wilson 2002).

Another criticism refers to its contribution to the control of action (see review in Baumeister & Masicampo, 2010). In other words, doubt is raised concerning the positive value of consciousness for controlling actions. Instead of dismissing the importance of conscious thought, Baumeister and Masicampo (2010) suggest that the function of conscious thought is not primarily for explaining a behavior or having direct control over actions. Instead, they suggest that consciousness is critical for processing information the brain already has and indirectly rather than directly contributes to more controlled behavior (Baumeister & Masicampo, 2010; Baumeister, Masicampo, & Vohs, 2011). Similarly, conscious processes may shape mediators' work indirectly. Raising consciousness to desired goals and outcomes can stimulate thinking and help mediators improve their judgments and reconstructing processes. As I discuss next, conscious activity is especially effective to reconsider views or attitudes and learn from past experiences toward future improved decisions through interacting with others who share multiple ways of dealing with situations.

Evidence for conscious causation of behavior is robust, though it is often indirect and delayed, and contingent upon an interplay with unconscious processes (Baumeister et al., 2011). Causality between intentions and behavior is more likely to be attained by having a specific plan, such as, "If X happens, then I will do Y" (Gollwitzer, 1999). Awareness of a link between an expected cue (X) and a wanted behavior (Y) causes the behavior to be performed automatically (Brandstatter, Lengfelder & Gollwitzer 2001). Moreover, simulating various plans and connecting them with particular outcomes is critical to change future responses (Gollwitzer & Sheeran, 2006). Additionally, research on skills acquisition reveals that acquiring skills begins explicitly with declarative knowledge and ends with procedural, often automatic knowledge (Anderson, 1982; Dreyfus & Dreyfus, 1986; Reber, 1989). The more repeated a deliberate process, the more components of the decision-making become automated (Charness et al., 2005). Based on these studies, initial conscious processing promises high-quality, intuitive judgments (Hogarth, 2001). Conscious learning is the input of automatic decisions and defines their quality.

Expertise—What Does it Take? Research on expertise demonstrates that expert performance does not

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

merely depend on a prolonged experience but rather on the nature of that experience—its quality. In other words, quality performance is not simply determined by the length of practice but by the intensity of the cognitive endeavor and constant attention to improving particular. Such efforts ensure ongoing learning and improvement, and consequently, superior performance (Ericsson & Lehmann, 1996; Ericsson & Towne, 2010). Professional improvement is learning processes accomplished through continued, systematic efforts and truthful, often painful, reflection.

Ericsson (2007), an internationally recognized researcher of the psychological nature of expertise and human performance, is known for his claim that a period of at least a decade of continuous deliberate, reflective practice is required for building expertise. This time should be, according to Ericsson, dedicated to training focusing on tasks beyond the current level of competence and comfort. It must focus on specific sustained efforts to do something one can't do well or even at all (Ericsson, 2007). Experts, according to Ericsson, must attend to mistakes and possible ways to correct them.

To illustrate this point, Ericsson uses the advanced stage of learning to play golf as an example. When strokes become automatic, and the player thinks less about each shot and plays more from intuition, it is recommended to take many attempts from the exact same location rather than just playing the game over and over again. Repetitive actions involve more specific feedback on the technique to enable gradual adjustment of playing style and improving flexibility and control (Ericsson, 2007). He underlines that when practicing deliberately, professionals practice their thinking. They are not only performing actions but also planning on where they want to go and how to get there. It requires tracking the thought process, including exploring options for the next move, considering the consequences of each and planning a possible sequence of actions to follow, and assessing what went wrong and ways to avoid future errors.

The Conditions for Quality of Intuitive Judgments. Kahneman and Klein (2009) stress two conditions for assessing the quality of intuitive judgments: 1. The validity of the environment in which the decision was made; and 2. The history of the decision-makers learning opportunities to study and repetitively practice the rules and regularities of that context. High-validity environments offer valid cues on the nature of the situation necessary for developing skilled automatic intuitions. These environments enable constant exposure

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

to regularly recurring cues (Hertwig, Hoffrage, & Martingnon, 1999). They have relatively steady relationships between cues and resulting outcomes. For example, medicine is considered a field of relatively high validity while the political environment is low-validity environments. The second necessary condition for developing high-quality, intuitive judgments is creating sufficient opportunities for learning the environment. It is essential to learn domain regularities and relevant cues and practice essential skills over an extended period. These conditions reinforce the critical role of deliberate learning processing and conscious input.

Implications on Mediation. Considering the two conditions suggested above for quality decisions, mediation is not a high validity environment as cases and situations are diverse and do not necessarily repeat themselves. Mediation may be defined as an ill-structured knowledge domain whereby cases may be complex and different from one another (Ross et al., 2005). However, similar emotional, psychological patterns and relational dynamics play out across cases and repeat themselves. These human patterns offer an opportunity for learning and professional development.

Mediator's set of capabilities can improve by forming multiple opportunities for learning the behavior of parties under stress motivated by underlying relational-psychological factors. Engaging in continuous and systematic reflection on such behavioral and emotional cues that repeat across cases can help mediators learn and improve their responses and services to support more effective outcomes. Yet, as discussed, mediation education and training are typically limited to the basic 40 hours of the initial certificate program, in most cases. Most mediators agree that basic training is necessary but insufficient to developing competence (Bronson, 2000). Initial training provides a good introduction to mediation's challenges, but mediators must continue their education to advance professionally and increase effectiveness (Bronson, 2000). Considering the abovementioned studies on cognitive processing and the interplay between consciousness and unconsciousness, decision making, and expertise, ongoing training and learning can be valuable for improving mediation outcomes. It may be especially beneficial for helping parties effectively navigate implicit psychological and relational dynamics toward more constructive interactions.

In spite of the recognition of the value of continuous education among mediators, the interest in deliberation

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

and reflective practice seems to be low. In the aforementioned lab studies (Kressel et al., 2012; Peleg-Baker et al., 2012), for example, most mediators did not use post-mediation interviews for self-examination and learning from their practice.

Reflective practice is in line with the principles of adult learning. Adults learn and improve through acquiring new knowledge and developing new understanding and skills. Their learning is most effective by directly using their and others' experiences as rich resources (Schon, 1983; Lang & Taylor, 2000). Advocating for reflective practice, Lang & Taylor (2000) encourage mediators to be purposeful and intentional in their work. To develop competency and an ability to assess the effectiveness of their interventions, mediators are encouraged to compare between their practices and their intentions—how the choices mediators make are connected to mediation goals and outcomes. Systematic, structured reflection can guide mediators in examining the connection between intentions and results.

Although many scholars and practitioners advocate for reflective practice across many domains, I found only a handful of empirical studies on the effectiveness of reflective processes. In order to reinforce my proposal for reflective processing as a promising tool for mediators, I present a few insights informed by empirical studies conducted in other fields, such as medicine and management.

Reflection—Research and Practice

So far, I suggested that while the nature of the mediation environment is uncertain, intangible emotional, psychological, relational dynamics repeat across cases. Mediators have a significant role in helping parties successfully navigate these subtle complexities and improving their practice and flexibility in handling them through reflective learning.

An essential tool for developing flexibility and ability is self-reflection. Reflection is a form of a conscious learning process. It helps learners increase awareness of their experiences and, therefore, their abilities to learn from them (Anseel et al., 2009; Gray, 2007). I propose reflection as a cognitively conscious mode—an intentional learning procedure for increasing mediators' awareness of their automatic reactions, which are unconscious and, therefore, improve their responses to social psychological cues during mediation. A conscious cognitive activity is characterized by awareness, attention, information gathering, and reflection

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

(Louis & Sutton, 1991). Consciousness entails two forms: 1. Phenomenal awareness is considered the lower level of consciousness, describing feelings, sensations, and orienting to the present moment. 2. Ability to reason, reflect on one's experiences, and have a sense of self, especially one that extends beyond the current moment (Baumeister & Masicampo, 2010). In this article, I focus on improving the latter.

Reflection has been well established as a beneficial element of learning (Dewey, 1938; Schön, 1983), and across disciplines, such as organizational management (Weick, 1995; Daudelin, 1996), medicine (Mamede, Schmidt, & Rikers 2006; Aukes et al., 2007; Bishop, 2007; Mann, Gordon, & MacLeod, 2009; Mamede et al., 2010; 2012; 2012a), education and psychology (Ohlsson, 1996; Edwards, 1998; Mayer 2004; Moreno & Mayer, 2005), and conflict resolution and mediation (Kressel, 1997; Lang & Taylor, 2000; McGuire & Inlow, 2005; Marsick, Sauquet, & Yorks, 2006; Peleg-Baker et al., 2012). It entails conscious processing of individuals' own experiences to increase awareness, thus learning from it and change behavior (Hullfish & Smith, 1961), and integrating new concepts and experiences into existing knowledge structures (Gray, 2007).

Empirical studies on the effectiveness of reflective processing in medicine and management support the idea of using reflection as a learning tool to improve mediators' practice. Mamede and colleagues showed in a series of studies that reflection reduces diagnostic errors and improves clinical reasoning, although the mechanisms by which reflection minimizes flaws in diagnosis are still unclear (Mamede, Schmidt, & Rikers 2006; Mamede et al. 2010; 2012; 2012a).

Doctors enhanced the immediate diagnostic accuracy of complex cases by applying cognitive reflection. In these studies, reflection was structured by asking participants to suggest a diagnosis for a case, list findings in the case that support their diagnosis or oppose it, then list findings expected to be present but were not described in a case, and then alternative diagnoses if their initial diagnosis would prove to be incorrect. Participants followed the same procedure for each alternative diagnosis and then ranked them in order of likelihood and selected the most accurate diagnosis. Interestingly, medical students, compared to medical doctors, needed more time to benefit from reflection and only when diagnosing simple cases. In both cases, learning became apparent only a week after, which is in line with studies showing that the effect of

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

elaboration or deep cognitive processing on learning emerges only after some delay (Woods, Brooks, & Norman, 2007). Reasons for delayed learning could be exhaustion due to high cognitive load, initial confusion, given the copious details considered, or simple domain schema with low knowledge. Participants in reflection condition outperformed those in non-reflection conditions in diagnosing novel future cases rather than in immediate cases diagnosis (Mamede et al., 2012a).

As in the case of mediators' automatic decisions during mediation, clinicians' reasoning is highly automatic and arises early in the clinical encounter within an environment of time constraints, thus prone to biases and errors particularly in complex, unfamiliar or new cases. In Mamede and colleagues studies (2010; 2012a), the quality of illness scripts (mental representations) and performance of doctors seem to improve after elaborate cognitive processing. They explain that reflection may support expanding as well as restructuring schema, which is likely to result in competent diagnostic and automatic decisions (Mamede et al., 2010; 2012; 2012a). Consistent with expertise literature supportive of the notion that competent performance stems from domain complex schema, doctors develop complex illness scripts that comprise of the link among symptoms and diseases and the conditions under which an illness may develop. The richer their scripts, the more accurate their immediate diagnosis.

The mechanisms producing incorrect intuitions may operate in the lack of skill, as suggested by Kahneman and Klein (2009). Thus, when individuals have a skilled response to a task, they are likely to use it, and they do it automatically. Generating diagnosis relies on pattern recognition by matching symptoms to previous instances (Mamede, et al., 2010). Prior effective experiences are, therefore, key to arrive at a skillful automatic match. The positive effect of reflection may occur since it explicitly focuses attention on specific aspects, which may lead to richer mental models and diagnosis competence. It may activate additional relevant knowledge and foster integration and reorganization of preexisting knowledge (Mamede, et al., 2010).

Ellis and Davidi (2005) provide another example. They showed that Israeli soldiers demonstrated richer mental models and improved performance in navigation exercises after conducting after-event reviews (AER) of failed events. AER gave soldiers a systematic learning opportunity to contemplate on their

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

performance. They detected errors by comparing both performance versus the intended action and failed versus successful events (added successful experiences analysis). Improvement was higher in the latter group. Also, Anseel and colleagues found that reflection combined with feedback rather than reflection or feedback alone improves employee performance on a web-based work simulation (Anseel, et al., 2009). They conclude that combining reflection and goal-setting instructions, looking back on past behavior by guided reflection and looking forward to future behavior by setting goals are particularly strong interventions. Comparing effects of different reflection types on learning--alone, with a helper, and peer group, Daudelin (1996) found that the first two were more significant. However, it could be due to flaws in the study wherein in "helper" and "alone" conditions subjects responded to specific questions, whereas reflection in the peer group was unstructured and more general.

These studies demonstrate how reflection is critical for forming complex domain schema and improving the quality of automatic judgments. Reflection seems to support the development of a complex understanding and effective when done systematically, helps to formulate and to test hypotheses, and done with a facilitator and in groups. When individuals engage in focused and repetitive learning over long periods of time, they form complex domain schema and develop competencies that are likely to override the tendency to flawed intuitive judgments (Kahneman & Klein 2009). Expert schemas have been shown to be more complex than novice schemas; they also include a greater number of attributes, which are better connected (Fiske & Taylor, 1991; Rousseau, 2001). Complex schemas serve experts in multiple ways such as enhanced domain-relevant memory skills, problem-solving and decision-making effectiveness, and skilled intuitive decisions (Chase & Simon, 1973; Ericsson & Lehmann, 1996; Dane, 2010). Simple schemas of low domain knowledge are likely to result in an inclination to generate inaccurate and low-quality automatic judgments (Tversky & Kahneman 1974; Kahneman et al., 1982). They tend to be shallow and insufficient for processing complex environmental stimuli (Weick, 1995; Kahneman & Klein, 2009).

Further advice for the implementation of reflective processing and its possible highest benefits is found in social cognition literature. Hofmann and Wilson (2010) claim that self-insight into implicit tendencies may be most effective through a gradual self-inference process. The accuracy of this process will

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

be best if valid cues for implicit tendencies exist (such as gut feelings or self-observed nonverbal behaviors), detected (cue detection), and used (cue utilization) as a basis for explicitly explaining and improving behavior. Since cue detection and utilization may be easily impeded by different factors such as attentional focus, chronic self-views, and false lay theories, a repetitive, gradual process may be supportive of increasingly accurate self-inference.

MORE IMPLICATIONS FOR MEDIATORS

Studies on decision-making, expertise, and social cognition provided extensive support for my point-of-departure in this paper that mediators' decisions in the dynamic, volatile, and fast-paced mediation setting dominated by intuitive automatic reactions can improve. These decisions might lack the awareness to inducing cues and explicit assessment of their validity. Quick decisions are expected to be bypassed by powerful, often rigid, automatic responses. They are efficient but likely to be biassed and flawed and might also deviate from initial intentions. As reviewed here, many negotiations and mediation studies indicate that although parties and mediators are highly interested in pursuing a wide range of goals, particularly implicit social-psychological elements, mediators frequently focus on explicit aspects like agreements and solutions while underlying goals are overlooked.

To improve the quality of automatic judgments' and help mediators become more flexible and effective in dealing with a broad spectrum of emotional and social psychological subtle dynamics, I propose forming gradual and consistent learning opportunities, specifically systematic and structured cognitive reflection. This type of reflection is likely to help mediators to reduce the gap between their intentions and their practice, and between failed versus successful events.

Considering the automatic nature of many of mediators' decisions and their biases that powerfully affect their and parties' ability to deal with emotional, relational, psychological subtleties, it can be helpful for mediators to engage in continuous structured reflection for developing proper capabilities to better address these implicit issues. Critical is the understanding of the interplay between unconscious with conscious processes for gaining more flexibility and effectiveness, although indirect, in mediators' practice (see also Peleg-Baker, 2014 for a comprehensive review). As discussed, an intense conscious cognitive

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

reflection is likely to deepen and extend mediators' domain schema and consequently improve the quality of their automated decisions, especially in dealing with multifaceted, complex social-psychological aspects.

A systematic, structured, and goal-setting reflective protocol can be useful for improving mediators' decision-making. Drawing on Curhan and Elfenbein's (2006) Subjective Value Inventory (SVI) that aims to evaluate negotiation outcomes, I developed an action-oriented four dimensional Structured Reflective Instrument (SRI) to help mediators effectively and systematically address mediation goals, including three intangible social-psychological ones. Intangible goals are process-related, parties' perception of self, and relational issues. Mediators can use the Instrument before mediation to prepare for the session and after mediation to reflect on their performance and improve future decisions and mediation outcomes. I provide an example of one of these reflective aspects in the Appendix.

Like the structured reflection conditions used in the reviewed medicine and management studies, the proposed Instrument guides mediators to follow a reflective procedure structurally and systematically. The reflective process offers specific questions in which mediators analyze their intended goals versus actual actions and compare failed and successful decisions. They are instructed to review examples of behaviors that promoted or inhibited each of these goals and think about prospective behaviors for effectively addressing each goal in the future.

The offered systematic and structured reflective framework is different from prevalent mediation debriefings that focus on general questions and solution-oriented. The SRI is specific, goals orientated, and structured in a way that compares between intentions and actual behaviors, and done individually and with a group, which is essential for decreasing the gap between intentions and actions (Gollwitzer, 1999; Gollwitzer, 2001; Gollwitzer & Sheeran, 2006). General questions such as 'Do you think the clients were satisfied with the process?' or 'What was challenging about the case?' might be too ambiguous to generate effective learning and specific behavioral improvement. By consciously examining their self-experiences and systematically clarifying intentions versus outcomes, mediators are more likely to address implicit goals and mediation outcomes effectively.

As Dewey argued decades ago (1938), learning occurs when people repeatedly interpret their

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

experiences, develop insights, and revise their actions to meet their goals, which result in new habits. Cognitive, specific reflective processes provide an opportunity for effective interplay between conscious and unconscious processes, allowing the latter to become more consciously accessible. When reflection is continuous and persistent, a complex domain-relevant schema is likely to form along with new capabilities that could override the proclivity toward over-emphasizing explicit issues, like agreements or solutions in the case of mediations, and improve results in other, more subtle matters. My call for a structured and systematic reflection, particularly on complex social-psychological aspects, merits future empirical research to examine whether and how it can enhance the quality of mediators' automatic decisions.

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

APPENDIX

An Example of Reflective Protocol- The *Process* related section

General Instructions:

A. For each question, please circle a number from 1-7 that most accurately reflects your estimation.
B. Once you evaluate each question, consider the following additional questions for each one:

1. What behaviors you used or did not use to support the parties concerning this matter?
2. What behaviors failed or were successful for addressing this matter?
3. What prospective useful actions would you consider applying in future mediations to support the parties concerning this matter?

PROCESS

1. How satisfied are you with supporting the parties interaction in this mediation?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Highly	

2. How satisfied are you with helping the parties to listen to and consider each other's concerns[1]?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Highly	

3. How satisfied are you with encouraging each party to voice their concerns?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Highly	

4. How satisfied are you with promoting a fair mediation process?

1	2	3	4	5	6	7	NA
Not at all			Moderately			Highly	

NOTES

1. Applying unreflective self-criticism in post interview and in reviewing her recorded mediation video, this mediator kept criticizing herself for a few behaviors including being impulsive, using ineffective behavior, talking too much, not listening, being biased against one of the parties, going beyond evidence in her interpretations of underlying motives, and unhelpful in assisting the parties to directly communicate ("What I wanted to help them do was to find a way to help them communicate with each other and that we didn't do. So I was not satisfied"). She repeatedly and harshly engaged in self-criticism rather than in constructive self-reflection. In other words, she appeared to view her mistakes as given, fixed rather than as having the potential to change and transform ("I am who I am." or "Take it or leave it!"). Therefore, she seemed to have limited capacity to learn from her acknowledged mistakes.
2. In interviews, the mediator presented herself as a mediator, who "can resolve every conflict that comes through the door."

[1] Concerns- needs, wishes, interests, opinions, and goals

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

REFERENCES

Anderson, J. R. 1982. Acquisition of cognitive skill. *Psychological Review* 89 (4): 369.

Anseel, F., F. Lievens, and E. Schollaert. 2009. Reflection as a strategy to enhance task performance after feedback. *Organizational Behavior and Human Decision Processes* 110 (1): 23-35.

Aukes, L. C., J. Geertsma, J. Cohen-Schotanus, R. P. Zwierstra, and J.P. Slaets. 2007. The development of a scale to measure personal reflection in medical practice and education. *Medical Teacher, 29, 2*(3): 177-182.

Baumeister RF, Masicampo EJ. 2010. Conscious thought is for facilitating social and cultural interactions: how mental simulations serve the animal-culture interface. *Psychological Review, 117*(3): 945

Baumeister, R. F., E. Masicampo, and K. D. Vohs. 2011. Do conscious thoughts cause behavior? *Annual Review of Psychology, 62*: 331-361.

Bargh, J. A., and T. L. Chartrand. 1999. *The unbearable automaticity of being*. American Psychologist, 54: 462–479.

Bishop, V. 2007. Clinical supervision: What is it? Why do we need it? *In Clinical Supervision in Practice: Some Questions, Answers and Guidelines for Professionals in Health and Social Care.* 2d ed. Basingstoke: Palgrave Macmillan.

Bodenhausen, G. V., and A. R. Todd. 2010. Automatic aspects of judgment and decision-making. In *Handbook of Implicit Social Cognition*. New York: Guilford.

Bos, M. W., A. Dijksterhuis, and R. B. Baaren. 2008. On the goal-dependency of unconscious thought. *Journal of Experimental Social Psychology*, 44 (4): 1114-1120.

Brandstatter, V., A. Lengfelder, and P.M. Gollwitzer. (2001). Implementation intentions and efficient action initiation. *Journal of Personality and Social Psychology, 81:* 946–960.

Bush, R. A. B. and J. P. Folger. 1994. *The promise of mediation: Responding to conflict through empowerment and recognition*. San Francisco: Jossey-Bass.

Carroll, P., K. Sweeny, and J.A. Shepperd. 2006. Forsaking optimism. *Review of General psychology*, 10: 56-73.

Charkoudian L, C.D. Ritis, R. Buck, C.L. Wilson. 2009. Mediation by any other name would smell as sweet or would it? The struggle to define mediation and its various approaches. *Conflict Resolution Quarterly*, 26(3): 293-316.

Charness, N., M. Tuffiash, R. Krampe, E. Reingold, and E. Vasyukova. 2005. The role of deliberate practice in chess expertise. *Applied Cognitive Psychology*, 19(2): 151-165.

Chase, W. G., and H.A. Simon. 1973. Perception in chess. *Cognitive Psychology*, 4: 55–81.

Conlon, D.F., H. Moon, H., and K.Y. N.G. 2002. Putting the cart before the horse: The unexpected benefits of arbitrating before mediating. *Journal of Applied Psychology, 87:* 978-984.

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

Curhan, J. R., H.A. Elfenbein, and H. Xu. 2006. What do people value when they negotiate? Mapping the domain of subjective value in negotiation. *Journal of Personality and Social Psychology, 91:* 493-512.

Curhan, Jared R., H. A. Elfenbein, and N. Eisenkraft. 2010. The objective value of subjective value: A Multi-Round negotiation study. *Journal of Applied Social Psychology* 40 (3): 690-709.

Dane, E. 2010. Reconsidering the trade-off between expertise and flexibility: A cognitive entrenchment perspective. *The Academy of Management Review (AMR), 35* (4): 579-603.

Daudelin, M.W., 1996. Learning from experience through reflection. *Organizational Dynamics, 24*(3): 36-48.

Deutsch, R., and F. Strack. 2006. Reflective and impulsive determinants of addictive behavior. In R.W. Wiers and A.W. Stacy (Eds.), *Handbook of Implicit Cognition and Addiction*. Thousand Oaks, CA: Sage.

Deutsch, R., and F. Strack. 2010. Building blocks of social behavior: Reflective and impulsive processes. In *Handbook of Implicit Social Cognition*. New York: Guilford.

Dewey, J. 1938. *Experience and Education*. Macmillan, New York.

Dreyfus, H. L., and S.E. Dreyfus. 1986. *Mind over machine: The power of human intuition and expertise in the era of the computer*. New York: Free Press.

Edwards, R. 1998. Flexibility, reflexivity and reflection in the contemporary workplace. *International Journal of Lifelong Education, 17* (6): 377- 388.

Ellis, S., and I. Davidi. 2005. After-event reviews: Drawing lessons from successful and failed experience. *Journal of Applied Psychology*, 90: 857–871.

Ericsson, K. A., and A.C. Lehmann. 1996. Experts and exceptional performance: Evidence of maximal adaptation to task constraints. *Annual Review of Psychology*, 47: 273– 305.

Ericsson, K.A., and T.J. Towne. 2010. Expertise. *Wiley Interdisciplinary Reviews: Cognitive Science, 1*(3): 404-416.

Evans, J. S., 2011. Dual-process theories of reasoning: Contemporary issues and developmental applications. *Developmental Review.*

Fiske, S. T., and S.E. Taylor. 1991. *Social cognition.* 2nd ed. New York: McGraw-Hill.

Gollwitzer P.M. 1999. Implementation intentions: strong effects of simple plans. *American Psychologist.* 54: 493–503.

Gollwitzer P.M., Sheeran P. 2006. Implementation intentions and goal achievement: a meta-analysis of effects and processes. *Advances in Experimental Social Psychology*. 38: 69–119

Gray, D. E. 2007. Facilitating management learning: Developing critical reflection through reflective tools. *Management Learning*, 38: 495–517.

Hedeen, T., S. S. Raines, and A.B. Barton. 2010. Foundations of mediation training: A literature review of adult education and training design. *Conflict Resolution Quarterly, 28*(2): 157-182

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

Hertwig, R., U. Hoffrage, and L. Martingnon. 1999. Quick estimation: Letting the environment do the work. In G. Gigerenzer, P. M. Todd, and A. B. C. Research Group (Eds.), *Simple heuristics that make us smart* (pp. 37–58). New York: Oxford University Press.

Hofmann, W., and Wilson, T. D. 2010. Consciousness, introspection, and the adaptive unconscious. Handbook of Implicit Social Cognition. New York: Guilford

Hogarth, R. M. 2001. *Educating intuition*. Chicago: University of Chicago Press.

Hullfish, H. G., and P.G. Smith. 1961. *Reflective thinking: The method of education of Education*. New York: Dodd, Mead and Co.

Jacoby, L. L., D.S. Lindsay, and J.P. Toth. 1992. Unconscious influences revealed: Attention, awareness, and control. *American Psychologist; American Psychologist, 47*(6): 802.

Kahneman, D. (2011). Thinking, fast and slow. New York, NY: Farrar, Straus and Giroux

Kahneman, D., P. Slovic, P., and A. Tversky. 1982. *Judgment under uncertainty: Heuristics and biases*. Cambridge: Cambridge University Press.

Kahneman, D., and G. Klein. 2009. Conditions for intuitive expertise: A failure to disagree. *American Psychologist*, 64(6): 515.

Kolb, D. M., and Associates. 1994. *When Talk Works: Profiles of Mediators*. San Francisco: Jossey-Bass.

Kressel, K. 1997. Practice-Relevant Research in Mediation: Toward a Reflective Research Paradigm. *Negotiation Journal*, 13:143–160.

Kressel, K. 2006. Mediation revisited. In M. Deutsch, P. T. Coleman, and E. C. Marcus (Eds.). In *The handbook of conflict resolution: Theory and practice*. San Francisco, CA: Jossey-Bass.

Kressel, K. 2009. Lurching toward theory: The case of case study research in conflict mediation. *Pragmatic Case Studies in Psychotherapy, 5* (3): 23-37.

Kressel, K. and D. G. Pruitt. 1989. *Mediation research.* San Francisco, CA: Jossey-Bass.

Kressel, K. and H. Gadlin. 2009. Mediating among scientists: A mental model of expert practice. *Negotiation and Conflict Management Research, 2,* 308-343.

Kressel K., T. Henderson, W. Reich, C. A. Cohen. (2012) Multidimensional analysis of conflict mediator style. *Conflict Resolution Quarterly*. *30* (2): 135-171.

Kruger, J., and D. Dunning. 1999. Unskilled and unaware of it: How difficulties in recognizing one' s own incompetence lead to inflated self- assessments. *Journal of Personality and Social Psychology, 77:* 1121–1134.

Lang, M., and A. Taylor. 2000. *The making of a mediator developing artistry in practice*. San Francisco.

Louis, M. R., and R.I. Sutton. 1991. Switching cognitive gears: From habits of mind to active thinking. *Human Relations, 44:* 55–76.

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

Mamede, S., H.G. Schmidt, and R. Rikers. 2006. Diagnostic errors and reflective practice in medicine. *Journal of Evaluation in Clinical Practice, 13*(1): 138-145.

Mamede, S., H. G. Schmidt, R. M. J. P. Rikers, E. J. F. M. Custers, T. A. W. Splinter, and J. L. C. M. van Saase. 2010. Conscious thought beats deliberation without attention in diagnostic decision-making: At least when you are an expert. *Psychological Research* 74 (6): 586-92.

Mamede, S., T. A. W. Splinter, T. van Gog, R. M. J. P. Rikers, and H. G. Schmidt. 2012. Exploring the role of salient distracting clinical features in the emergence of diagnostic errors and the mechanisms through which reflection counteracts mistakes. *BMJ Quality and Safety* 21 (4): 295-300.

Mamede, S., T. van Gog, A. S. Moura, R. de Faria, J. M. Peixoto, R. M. J. P. Rikers, and H. G. Schmidt. 2012. Reflection as a strategy to foster medical students' acquisition of diagnostic competence. *Medical Education* 46 (5): 464-72.

Mann, K., Gordon, J., and MacLeod, A. 2009. Reflection and reflective practice in health professions education: A systematic review. *Advances in Health Sciences Education, 14*(4): 595-621.

Marsick, V. J., A. Sauquet, and L. Yorks. (2006). Learning through reflection. In M. Deutsch, P. Coleman, and E. Marcus (Eds.), *The handbook of conflict resolution*. 2nd ed. San Francisco, CA: Jossey-Bass.

Mayer, R. E. 2004. Should there be a three-strike rule against pure discovery learning? The case for guided methods of instruction. *American Psychologist*, 59: 14–19.

McGuire, A. P., and L. Inlow. 2005. Interactive Reflection as a Creative Teaching Strategy. *Conflict Resolution Quarterly, 22(3):* 365–380.

Monk, G., and J. Winslade. 2001. *Narrative Mediation: A New Approach to Conflict Resolution.* San Francisco: Jossey-Bass.

Moreno, R., and R. E. Mayer. 2005. Role of guidance, reflection, and interactivity in an agent-based multimedia game. *Journal of Educational Psychology*, 97: 117–128.

Nandagopal, K., and Ericsson, K. A. 2012. Enhancing students' performance in traditional education: Implications from the expert–performance approach and deliberate practice. In *APA Educational Psychology Handbook*. Washington, DC: American Psychological Association.

Nisbett, R. E., and T.D. Wilson. 1977. Telling more than we can know: Verbal reports on mental processes. *Psychological Review, 84* (3): 231-259.

Nisbett, R., and L. Ross. 1980. *Human inference: Strategies and shortcomings of social judgment*. Englewood Cliffs, NJ: Prentice-Hall.

Peleg-Baker, T. 2012. Can mediators' increase awareness to the factors underlying their decisions by reflective processing? Unpublished manuscript, Rutgers University.

Peleg-Baker, T. 2012a. The Cognitive Characteristics of Mediator's Decision Making. Paper presented at the Conflict Studies and Global Governance Conference, the University of Massachusetts, Boston. https://newark-rutgers.academia.edu/TzofnatPelegBaker

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

Peleg-Baker, T. 2014. Shedding Light on Mediators' Decision-Making: The Conscious and Unconscious Mental Processing Determining Experts' Automatic Intuitive Decisions. Working manuscript No. 2. https://newark-rutgers.academia.edu/TzofnatPelegBaker

Peleg-Baker T., K. Kressel, and C. Cohen. 2012. Beyond the dichotomy of styles -The cognitive characteristics of mediators' Decision Making: The Devil is in the Details:. Poster presented at Annual Meeting of the American Board Association, Washington, D.C. https://newark-rutgers.academia.edu/TzofnatPelegBaker

Picard, C. A. 2000. Learning About Learning: The Value of 'Insight.' *Conflict Resolution Quarterly, 20(4):* 477–484.

Pruitt, Dean G. 2012. A history of social conflict and negotiation research. In *Handbook of the History of Social Psychology*: A. Kruglanski and W. Stroebe, Eds. Psychology Press, New York.

Ohlsson, S. 1996. Learning from performance errors. *Psychological Review, 103:* 241–262.

Reber, A. S. 1989. Implicit learning and tacit knowledge. *Journal of Experimental Psychology*: General, 118: 219–235.

Riskin, L. L. 1996. Understanding mediators' orientations, strategies, and techniques: A grid for the perplexed. *Harvard Negotiation Law Review*, 1: 7-51.

Ross, K. G., J.K. Phillips, G. Klein, and J. Cohn. 2005. Creating expertise: A framework to guide simulation-based training. *The Interservice/ Industry Training, Simulation and Education Conference.*

Rousseau, D. M. 2001. Schema, promise and mutuality: The building blocks of the psychological contract. *Journal of Occupational and Organizational Psychology*, 74: 511– 541.

Schön, D. 1983. *The reflective practitioner: How professionals think in action.* London: Temple Smith.

Silbey, S. S. and S.E. Merry. 1986. Mediator settlement strategies. *Law and Policy*, 8, 7-32.

Simon, H. A. 1992. What is an "explanation" of behavior? *Psychological Science*, 3(3): 150-161.

Thompson, L. 1990. Negotiation behavior and outcomes: Empirical evidence and theoretical issues. *Psychological Bulletin, 108:* 515-532.

Tversky, A., and D. Kahneman. 1974. *Judgment under uncertainty: Heuristics and biases*. Science, 185: 1124-1131.

Weiner, G, 2012. "A Call for Evidence Based Standards for Mediator Quality." Professional Standards and Ethics. Paper 2. http://www.civiljustice.info/profstan/2

Wall, J. A. and S. Chan-Serafin. 2010. Do mediators walk their talk in civil cases? *Conflict Resolution Quarterly, 28:* 3-21.

Wall, J. D., J. B. Stark, and R. L. Standifer. 2001. Mediation: A current review and theory development. *Journal of Conflict Resolution.* 45(3): 370–391.

Wegner DM. 2002. *The Illusion of Conscious Will.* Cambridge, MA: MIT Press.

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com

Westen, D. 1999. The scientific status of unconscious processes: Is Freud really dead? *Journal of the American Psychoanalytic Association, 47*(4): 1061-1106.

Weick, K. 1995. *Sense making in organizations*. Thousand Oaks, CA: Sage.

Wilson, T. D., S. Lindsey, and T.Y. Schooler. 2000. A model of dual attitudes. *Psychological Review,* 107 (1): 101-126.

Wilson, T. D. 2002. Strangers to ourselves: Discovering the adaptive unconscious. Cambridge, MA: Harvard University Press.

Woods N.N, L.R. Brooks, G.R. Norman. 2007. The role of biomedical knowledge in diagnosis of difficult clinical cases. *Advances in Health Sciences Education* 12 (4): 417-26.

DOI 10.2139/ssrn.2443930 https://ssrn.com/abstract=2443930 Tzofnat@Camden.Rutgers.edu Tzofnatpb@gmail.com