1979). Breaking up established thinking frames allows people the opportunity to see matters differently and yields a greater openness to new ideas and options. In the same way, a mediator creates dissonance in thinking. For instance, to pierce the myth of justice—the notion that a court will determine a matter clearly and definitively in the way the party expects—the mediator might suggest, “I’ve heard judges say that they typically try to dissatisfy both parties because they don’t know the right answer and don’t want to make a big winner and big loser,” or “Some attorneys say there is no case so good it can’t be lost or so bad it can’t be won; you can’t trust those judges.” The lines are calculated to create doubt and cause a disputant to be less sure of his or her position, and a little bit more reflective, and then followed by a dose of humor to diffuse the shock. Statements of that ilk can disrupt parties’ myopic focus on who will win and the complacent belief that the court will give them what they want. As a result, the disputants are pressed to take responsibility for their own decisions without being directly confronted.

Words and Language

From the earliest times in many traditional cultures, words and language were understood to have a certain magic. The use of a word could have a strange consequence that allowed what people wanted to happen (Rothenberg, 1986). In a similar way, the particular words and language used by a mediator to frame a dispute can alter or shift the context of a dispute. For instance, the word custody is an exclusive term that can intensify conflict; the term implies, like the ownership of property, that one party wins and the other must necessarily lose. Substitution of a more inclusive term, such as parenting responsibility instead of custody, allows both parties to participate. In other contexts, medical malpractice disputes are more accurately termed medical treatment disputes. In matters where child sexual abuse is alleged, labels such as victim and perpetrator make difficult conflicts all but impossible to resolve. Instead, terms such as child and responsible adult focus attention on the behavior, not on the labeling or moral judgment of a party (Benjamin, 1991). The careful choice of words and language is critical and cannot be underestimated or discounted as mere semantics.

Metaphors and Stories

Stories carry metaphors. Metaphors help people understand what is happening to them. Metaphors can make reality if not appealing then at least endurable. The naked truth is that separation and loss are painful and harsh events in people’s lives. Stories and metaphors dress up the truth so that, though not painless, it is at least less painful. The metaphor offers a sense of an actual experience by the use of imagery that resembles the event. It is a compressed story that highlights the critical pieces of the experience in a different and more graspable way. The poet Howard Nemerov (1978, p. 229) likens a metaphor to “the sudden bursting of a flare, so that you see for an instant not only the road ahead but also its situation in the terrain around.” The trickster stories are themselves metaphors. The telling of stories about other people’s circumstances normalizes a difficult experience. Hearing a metaphor conjures up in the listener’s mind a picture of his or her own situation. To be effective, the metaphor needs to be drawn from the listeners’ life experiences and offer them some measure of choice or control in their situation. For instance, divorce can be compared to a serious illness that may not be curable but is manageable. The mediator can present himself or herself as an oncologist aiding in the treatment of the cancer. To follow the metaphor, the doctor (mediator) may not be able to cure the cancer (stop the divorce), but he or she can help the patient (party) actively participate in the treatment (have some measure of choice and control over his or her life). Physical health is a good source of material for metaphors, especially in family conflicts. Most people have either dealt with serious illness or disability personally, through a close friend or relative, or know someone who has. Divorce, disease, and death are often closely linked in people’s
minds, and usually illness is not viewed as a person’s fault. Yet the mediator must be careful not to allow the traditional dualistic construct of healthy versus sick to seep into the metaphor. Some serious illnesses, such as cancer, epilepsy, or AIDS, have become metaphors that confuse the person with the malady. If the disease is bad and to be aggressively combated, then so too must the person be bad to deserve the affliction (Sontag, 1977, 1989). Careful construction of metaphors is critical; however, their power and value in transforming the context of a dispute are incalculable.

Reframing

Reframing is one of the most fundamental techniques used by mediators to transform the context of a dispute. The mediator, like the trickster, takes the communication of a party and, without abrogating his or her meaning entirely, alters and redirects that meaning to allow more constructive use in the settlement process. Thus when parties are actively fighting, the mediator might compliment the parties on how well they fight and then go on to reframe their negative statements into positive meanings by noting that “people who fight well can negotiate well.” The mediator, like a trickster, twists their words and shifts the context of the discussion. Reframing is a technique by which resistance can be surreptitiously bypassed (Fong and Haynes, 1990). When an issue is reframed, more ways of looking at the dispute emerge, and the parameters of the conflict become more fluid. In reframing, the mediator operates to reposition each antagonist so that the dispute is amenable to a resolution.

Resistance and Paradox

When the level of entrenchment in a position of one or more disputants is especially acute and the resistance to change pronounced, the use of paradox can be an effective technique to transform the context of the dispute. The paradox is a means of changing the rules of the game. When a party frames issues in an either-or or a right-wrong dualism, traditional logic typically fails to loosen his or her hold on the position seized. The use of logic is a form of confrontation or challenge. A particular line of logic is always susceptible to contradiction by another equal and opposite line of logic, and a pitched battle ensues between the competing logics. “Why don’t you try this . . .?” is met with “Yes, but . . .” as the entrenched party thwarts any perceived challenge to his or her position. For the mediator, as for the trickster, logic is the least-effective means of convincing or persuading anyone of anything. Grounded in communications and linguistics theory, paradox, in contrast to logic, co-opts and uses the force of a party’s resistance to enact a shift in his or her thinking. Thus a party convinced of the justness of his or her position is encouraged to consider the pursuit of that course of action and to do everything necessary to obtain the result on which he or she is fixed. Only by first exploring and supporting the parties’ thinking and encouraging them to hold on to their entrenched positions can the mediator move them to consider other options. Thus is the paradox: intensifying the commitment to a stated course of action lessens the commitment. Conversely, challenging resistance to a suggestion only serves to bolster the resistance, whereas recognizing the resistance may permit it to dissipate (Palazzoli, Boscolo, Cecchin, and Prata, 1985). In short, giving the parties permission to do what they say they must or want to do may let them not feel as compelled to pursue their stated courses of action.

In mediation, there are frequent opportunities for use of paradoxical injunction. For instance, a party skeptical of the mediation process and drawn to traditional legal action might be encouraged to go to court: “You always have the option to go to court. I don’t want to make you stay in mediation or try to convince you.” By contrast, the use of logic (“Going to court makes no sense because . . .”) is not likely to dissuade a determined party and may be counterproductive. Paradox is not merely reverse psychology. To be effective in using the paradox technique, mediators must on
some level believe that the parties have to exhaust their preferred courses of action before they can consider other alternatives.

Other mediation techniques are variations of the paradox. Suggesting extreme, unrealistic options that both parties consent to dismiss out of hand fosters a clearer focus on the options that might work. King Solomon’s threat to cut the infant in half was such a paradoxical device used to clarify the dispute. Judges also use a variation of the paradox, probably more out of frustration than by design, when they threaten “to sell everything” if the parties cannot come to agreement themselves.

The mediator’s use of a party’s resistance in this manner is not unlike the use of an opponent’s own force to throw him or her off balance in the martial art of aikido (Crum, 1987). Using logic head-on to confront an entrenched party results only in a test of wills. But approaching and acknowledging the resistance and blending with it allows an intransigent party’s energy to be redirected constructively.

**Questioning Process**

The real magic of mediation in transforming the context of a dispute is most evident in the sophistication and style of questioning a mediator adopts (Fong and Haynes, 1990). A working premise of mediation is that disputing parties have a connection with each other on some level. Most conflicts have both distributive and integrative aspects; the former concerns who gets what, and the latter relates to the parties’ future or ongoing relationship. Few disputes are purely integrative or distributive in character. In business or personal injury disputes, where the issues are seemingly only a question of money and the parties are not likely to have further dealings, there is still an integrative aspect. The injured party wants some acknowledgment of his or her suffering, and both parties typically want to feel that they have been reasonable and fair-minded. The particular connections or reciprocal relationships of the parties characterize and differentiate each dispute. These connections create circularity in the relationship (“I need you and you need me”).

Questions that bring to the fore those interrelationships are “questions of a difference” that can allow a framework for settlement to emerge (Fong and Haynes, 1990), for instance, “What kind of relationship do you both hope to have in the future, after this dispute is resolved?”

On an obvious level, asking questions is considerably less threatening to parties than making declarative statements. Questions tend to elicit further information and reflective responses; declarative statements tend to challenge positions and call for defensive responses. Thus the question “What are your thoughts about these other options?” encourages reflective thinking. By contrast, the statement “This option seems to be the best one, because . . .” is likely to draw a rebuttal, “Maybe, but . . .”

The best illustration of trickery-at-work in the questioning process is offered by Columbo, the television police detective. He is amusing and self-effacing; with outstretched arm and hand to forehead, precariously balancing his ever-present cigar and sporting a disheveled raincoat, he persists in asking obsequious questions of his suspect out of a seeming state of befuddlement. He is the embodiment of the wise fool; his seemingly simple-minded questions actually spin a web of intriguing complexity (Santino, 1990). Likewise, a mediator might ponderously ask, “I’m a bit confused, help me to understand, how will this work for you?” Solving a crime or catching a witness off-guard is, of course, not the mediator’s purpose. However, although the purpose differs, effective questioning is the primary means by which a mediator transforms the context of a dispute. Keeping disputants “on the move” by questioning them, gently but persistently, encourages them to consider the situation from another perspective. This can eventually yield a workable agreement between even the most intransigent parties.

**The Power of “Mistakes”—Intentional or Unintentional**

The mediator’s use of his or her own mistakes, both unintended and intended, can be an effective technique to shift the context of the dispute. Reminiscent of the wise fool trickster, the mediator uses his
or her own vulnerability to normalize and relax the atmosphere in
the discussion of the problem and to help the parties take responsi-
bility for the problem solving. For instance, if a male mediator is
accused by a female party of making a sexist or insensitive state-
ment, whether real or imagined, a defensive response that denies
the assertion is likely to intensify the conflict. On the other hand,
if the response of the mediator is to listen effectively and give cre-
dence to her reality, acknowledge his vulnerability, and encourage
her to bring any future “error” to his attention, then the result can
be the bolstering of the mediator’s credibility. The truth of the ac-
cusation is not determinable or relevant; the only consideration for
the mediator is how to use the “mistake” constructively to further
the mediation process.

There are some circumstances when the mediator might inten-
tionally make a mistake for the parties to catch. This antic can work
to foster the parties’ joint cooperation in checking the mediator. For
example, purposeful miscalculation of numbers, or a request by the
mediator for help in tabulating numbers, presses the parties into
responsibility for their agreement. Mistakes allow the mediator to
use his or her own vulnerability constructively to turn what appears
to be a disadvantage into an advantage.

**Negotiation as Ritual and Drama**

The ultimate transformation of the context of a dispute is accom-
plished by the structuring and managing of the negotiation process.
At core, formal mediation is nothing more than a three-party or
multiple-party negotiation. The mediator negotiates his or her
authority with each participant and facilitates their negotiation
with each other. Negotiation is the primary operative activity of
mediation; the mediation process is merely a particular format for
structured negotiation that employs the services of a third party.
Therefore, how the mediator understands and presents negotiation
and, in some instances, actually teaches the parties the ways of
negotiation is critical to the success of the mediation process.

Negotiation is often thought of in a rudimentary and simplistic
form: offer and counteroffer. Some view negotiation as a practical
necessity, others as a form of evil. Most people in Western cultures
view negotiation as a practical, rational, and utilitarian activity
wherein parties seek to maximize gains and minimize losses in allo-
cating and exchanging basic resources: time, money, product, or
energy (physical or psychological). In this perspective, the focus is
limited to “get as much as you can or give as little as you have to.”
In the legal context, attorneys do their calculations in negotiating
for their client on the basis of their guesses about what a court might
do (Menkel-Meadow, 1985). Styles of negotiation are often pre-
sented in dualistic terms; one is either a “hard” negotiator con-
cerned only with the result or a “soft” negotiator concerned only
with relationships and willing to settle at all costs (Williams, 1983).
The predominant model of negotiation taught in law and business
schools emphasizes the outcome; a win or loss is objectively deter-
mined by the result.

The negotiation process is far more complex. In most cultures,
negotiation is a form of ritual and drama. The deal and its result are
important, but the relationship dynamics between the parties is
equally important. Negotiation is simultaneously a social and psy-
chological interaction, as well as an economic event (Leff, 1976).
Contrary to the conventional wisdom that everybody wants some-
ing for nothing, few people actually operate under that assump-
tion. Most expect to contribute something. Thus even con games
are premised on allowing the dupe or mark to give the deceiver or
can artist something that is needed. Successful negotiation requires
creating a drama in which the parties to the negotiation need each
other. Curiously, the deal that is made as a result of negotiation can
be viewed as a good deal or a fraudulent swindle, depending on who
is judging the result. Still, whatever deal is determined, the struc-
ture, process, and execution are substantially the same: “Every
selling situation, ‘lawful’ or not, involves the creation of a drama
and of roles in that drama designed to move toward the same
denouement, a completed sale” (Leff, 1976, p. 183). A swindle, ironically, is at least for some period of time a consensual crime. Deciding when selling becomes swindling often requires determining if a sales pitch that merely uses “fluff and bluff” has crossed some unwritten line of propriety and become an intentional bait-and-switch routine. This judgment is largely a matter of social policy and legal control. However, an understanding of the negotiation process as essentially a social interaction ritual is important for the effective mediation of a dispute.

Understanding negotiation as substantially ritual and drama offers a natural backdrop for the view of the mediator as a trickster. The trickster of folklore is clearly a master actor and negotiator, if not a con artist of sorts (as must be a good mediator). This is not to suggest that the mediator should be a swindler or allow either party to be conned. However, if disputing parties are to resolve conflict, then the mediator must recognize the importance of developing a settlement scenario or drama in which both parties play a role. Disputing parties usually enter a conflict with scripts written in their own mind where one is the hero and the other person is the villain. The mediator needs to rewrite the scripts so that the disputants can see themselves as characters who exchange lines onstage and complete the play constructively. The mediator must necessarily be producer, director, script editor, actor, and narrator in the conflict management performance (Benjamin, 2001b). If the mediator allows the parties to move to the final scene—who gets what—before the plot has developed, the actors may feel that they have not had the opportunity to tell their stories and that the play is a sham. People who remark that they want their day in court do not necessarily literally mean a courtroom; they often mean a stage or forum to tell their stories. Time must be taken to properly set the scene and prepare the participants so that the resolution obtained appears to be of their own design. An effective mediator-trickster knows how to evade discussion of ultimate issues until he or she has ensured that the parties know what the conflict is really about. The mediator stalls the parties so that actual negotiation does not begin until they are ready. Like wine needing to ferment, “no conflict should be approached before its time” (Benjamin, 2002).

The mediator may need to give one or both of the parties stage directions, that is, teach negotiation. The parties need to learn the tricks of the trade. Thus, for instance, as every good poker player knows, it may be better to lose early in the game with a winning hand so that one can win later on with a losing hand. Applied to negotiation, this means to teach the art of trade-offs, how to think strategically, and how to develop both preferred and fallback perspectives. As the mediator imparts some of his or her own negotiation skills, the parties’ style of negotiation is modified from a simplistic offer-counteroffer format into a more sophisticated interactive negotiation format. The parties are shifted from thinking in terms of static, hard-and-fast positions to thinking dynamically in terms of multiple options. The parties learn to question and consider what pieces of each other’s interests they might accommodate to obtain what they themselves need (Benjamin, 2002).

Metastrategies

Finally, the techniques available to the mediator to transform the context of a dispute include metastrategic thinking, whereby the mediator determines when and under what circumstances to disclose or not disclose his or her strategy. For example, when mediators explain to the parties how the mediation process is structured in the agenda-setting task, they are showing their strategy for effective problem solving. By so doing, the mediators enlist the parties’ commitment to the process and responsibility for the decisions. At other times, however, mediators may choose to avoid the discussion of an action or intervention and in fact cloak their purpose. For instance, if a mediator becomes aware that one party is having significant difficulty in negotiating, to call direct attention to the impaired party may make matters worse. A caucus, first with the party with no difficulty and then with the person in difficulty, may
help to mask the mediator’s purpose of talking privately with the person in need of support without drawing undue attention. Any good mediator, like any good trickster, must appreciate the value of stealth as a device to further the negotiation process (Benjamin, 1998a, 2002).

**Deception and Manipulation**

The intention behind likening the professional role and practice of a mediator to those of the folktale trickster figure is not in any way intended to condone destructive, deceitful, or unethical behavior or to endorse the pursuit of agreement between disputing parties at all costs. At the same time, the comparison highlights and emphasizes the importance of the distinctive kind of thinking a mediator must do to effectively manage conflict. It is also worthy of note to draw a distinction between constructive and destructive deceptions. A constructive deception is done to aid disputing parties in their self-determination of informed decisions, whereas a destructive deception is done for the gain of one at the expense of another. Not all deceptions are the same. Forms of deception have been practiced as a means of survival and the propagation of humankind (and every other form of life) since the beginning of time (Rue, 1994; Wright, 1994).

**Natural History of Deception in Human Affairs**

The dynamics of deception have not only played a decisive role in the cultural history of humankind but they are also deeply embedded in the process of biological evolution. Deceptive traits, and traits for detecting deception, are a fundamental part of the functioning of not only humans but also animals, insects, plants, and other forms of life. Still, humans in general, and those from Western cultures in particular, fear deception perhaps even more than death. This preoccupation with deception has been a primary organizing principle in the formulation of religions (false teachings and doctrines of sin and salvation), the approach to philosophical inquiry, the pursuit and methodology of scientific inquiry, and our conceptions of health (both mental and physical). Rue (1994) suggested that Western tradition has developed as much as a result of flight from deception and falsehood as a quest for certainty and truth, if not more so. Western cultures’ rationalist tradition, in which the traditional professions are anchored, advances the notion that problems of deception can be avoided, or at least minimized, by the analysis and articulation of knowledge. In the rationalist scheme only reason is trusted and the senses are viewed as inherently deceptive and untrustworthy.

Trickster figures and mediators, who are their progeny, work substantially by their senses (intuitive wit). Thus, although the pure rationalist struggles to avoid or suppress delusion (both internally and externally), the mediator and the trickster figure accept the necessary purpose and function of delusional thinking in the conduct of human affairs and especially in the management of conflict.

**Ethics of Deception**

The notion of a trickster as a professional role model may be disconcerting since the term *trickster* typically has negative connotations, especially in Western cultures. The primary purpose of the trickster figure in myth and folklore is to instruct, but trickery and deception are nevertheless actively employed in that pursuit. Most people associate such manipulative behavior with deceit and dishonesty. Yet human behavior, almost by definition, includes and sometimes even requires the manipulation of circumstances or other people. Deception, in fact, may be essential for our survival and propagation as a species. Manipulation is the stuff of politics and the political maneuvering that goes on in every human social organization. Implicit in that realization, therefore, is the differentiation between appropriate, socially acceptable manipulations and unacceptable ones. Being clever in our society is in fact often
valued, even if it is at someone else’s expense, as in a successful business deal (another person may be labeled a criminal for similar behavior in a different circumstance). Depending on the context and who is judging, manipulative behaviors may be construed as clever and constructive (a politician), criminal or socially maladjusted (a juvenile delinquent), or sick or pathological (a sociopath). In any event, all manipulative acts are not bad per se. As a clinical definition, deception occurs when a discrepancy between appearance and reality can be attributed in part to the causal influence of another organism (Rue, 1994). Only if the behavior is judged in hindsight to be harmful to others is it disclaimed.

Many professionals, including doctors, lawyers, and clergy, regularly practice varieties of deception that are formally sanctioned and even encouraged. For a priest, rabbi, or minister, silence regarding a penitent’s confidences is a moral, if not a sacred, obligation that has been embodied as a privilege in law (Bok, 1978). Doctors sometimes lie to patients about the severity or nature of their illnesses under the guise of good medical practice for the patients’ welfare (Veatch, 1991). Some lawyers believe that it is valid and necessary to embellish the facts of their cases, if not outright lie, in the representation or protection of their clients’ interests (Freedman, 1975). In fact, our whole capitalist culture is based on principles of marketing and negotiation that include elements of acceptable deception; selling and swindling are often a hair’s breadth apart (Leff, 1976). Attaching a pejorative connotation to a manipulative or deceptive strategy per se is unwarranted. It is far too facile and simplistic to judge actions as right or wrong out of context. Heroes and scoundrels often inhabit the same body. In the same way, a mediator-trickster may alternately play the role of dupe or deceiver, or be so viewed by those outside the conflict.

If the premise is accepted that the whole or exact truth is not knowable, or is at least out of reach at a given moment, then we are left with only the degree to which we misrepresent, wittingly or unwittingly, the truth. Some may reject this premise as too relative, but the rest of us are left with a conceptual muddle that requires a distinction between truth and truthfulness. Truth is a matter of epistemology and addresses what is known and knowable; truthfulness is an ethical issue and deals with the use and manipulation of information (Bok, 1978). Mediators are less concerned with the truth than with truthfulness.

Truthfulness, as an ethical concern, is more troublesome. The nature of the intention and purpose underlying the manipulation of information is often difficult to ascertain. For instance, the degree of intention to deceive may vary and be colored by both the speaker’s own self-deception or misunderstanding as well as the listener’s desire to be deceived or simple lack of understanding (Watzlawick, 1976). The purpose of the deception is also germane. A speaker’s deception to obtain a specific outcome or advantage must be differentiated from a manipulation that merely attempts to allow other outcomes to be considered (Bok, 1978). The use of deception is not per se negative or unethical. In mediation, effective practice requires the manipulation of information to facilitate the parties’ ability to review all available options and to make informed choices. For that reason, many of a mediator’s skills, strategies, and techniques are founded on varieties of deception. It is not the least bit inconsistent to suggest that deception is necessarily employed by a mediator to ensure informed, consensual decision making. Deception, as operationally defined for use in mediation, is any manipulation or intervention designed or calculated to encourage a disputing party to reevaluate or reconsider his or her position. Paradoxically, deception is a necessary tool for a mediator to obtain a quality agreement between disputing parties.

The professional and ethical practice of mediation, however, does not condone unbridled use of deception. The check and balance on the mediator’s use of trickery is not the achievement of an outcome but rather the achievement of an informed and consensual outcome between the parties (Cooley, 1997).
Conclusion: Pursuit of the “Noble Lie”

Most mediators would be quick to disassociate themselves from mediation as pandering through trickery or deception. However, an effective mediator uses strategies and techniques similar to those of the folkloric trickster figure to help people in conflict view and understand the world around them differently and to help release disputing parties from their self-imposed constraints of limited options. Those are no small feats. An understanding of the necessity and purposes of deception is rooted in the intuitive sensibility of the trickster and the mediator. They both appreciate that conflicts are seldom rational in origin and cannot be settled by logic or analysis alone.

The successful mediation of a dispute sometimes even appears to be like magic. It is not, of course, and the structure and skills of mediation are learnable (Bandler and Grinder, 1975). A mediator must, however, intuitively sense the varying constructions of reality of the disputing parties so that the threads of their respective realities can be woven into the fabric of an agreement. As well, the mediator may also borrow from the shamans of traditional cultures their knowledge of ritual and ceremony (Eliade, 1964). This does not mean mediation should become therapy, even though it may be residually therapeutic. However, there should be a clear recognition that when conflicts occur between people, whether in families or in business, the first casualty is the loss of familiar patterns, habits, or traditions. If the mediator can provide new and different rituals and gain the parties’ commitment to the mediation process, then the final agreement is likely to be more resilient and durable.

The role of the mediator is fundamentally different from that of other professionals as they have traditionally functioned. Doctors, lawyers, judges, therapists, accountants, and most other professionals have been given—and have assumed—the mantle of experts in our culture. As such, they are responsible for solving problems or conflicts of clients or patients and for taking the blame if they fail.

In the view of many, the professional’s role is to give people answers. Too often, that leads to imposition of their preconceived ideas about reality on their clients. The client is told “the way it is or ought to be” and bent accordingly to fit into the right agreement. This model of professional practice is of little help to a mediator, whose source of authority is not anchored in a specialized knowledge base but rather derived from trust developed between the mediator and the parties.

The mythological trickster figure offers a metaphor and a better model of mediation practice. Tricksters are not experts; they are collaborators and sometimes coconspirators with the parties in effecting settlement of conflict. This is perhaps why the institutionalization of mediation can be so problematic. Mediators working within an agency or organization may be constrained and stifled (Benjamin, 1998b).

Instead of imposing an answer, the mediator helps disputing parties shift their constructions of reality enough for them to develop their own resolution of the conflict. Traditional professionals are grounded in a knowledge base from which to give advice; mediators have no such firm ground. Instead, the mediator, like the trickster, is left to constantly dodge, bob, weave, and maneuver between disputants’ entrenched positions, which have been built on all that good advice of traditional professionals. By hook or crook, the mediator concocts with the parties a scheme that can work for all of them. The mediator’s conceptual home, like the tricksters of folklore, is in the ever-changing and ambiguous space between irresistible forces and immovable objects.

Mediators, like trickster figures, are in some measure illusionists; both confront the harsh, jagged reality of conflict and seek to shift the appearance of that reality just enough to help those caught in conflict endure. Their use of deception and strategic intervention is calculated not for self-gain at the expense of the conflicting parties but rather for the parties’ benefit. As a result, ideally the parties learn, but at the very least they survive the conflict.
All human beings, and especially mediators, must sometimes deceive, manipulate, and even lie as a means of survival. Conflict is about survival. It is the purpose of the deceit that must be examined. If the purpose is solely to trick or force the parties to settlement at all costs or to serve the purposes of the mediator, the ethics of such behavior are dubious. If, however, the deception is designed to shift and reconfigure the thinking of disputing parties and to foster their cooperation, then the deception may well be a “noble lie” (Rue, 1994; Benjamin, 1995a).

Reflective Practice Questions

1. Do you agree with the author’s description of confusion, voyeurism, compulsiveness, and marginality as important qualities for mediators?

2. Have you played the role of trickster in your work as a mediator? To what extent are you comfortable or uncomfortable with playing that role? Have you experienced what the author refers to as the trickster’s “systemic intuition” as a quality that enhances your ability to bring peace into the room?

3. In what ways do you, like the author, experience mediation as theater? What implications does that analogy—and the author’s discussion of deception and manipulation—have for the ethics of mediation practice?

References


