

# Successful Scaling In Mediation

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**This article is derived from Fredrike P. Bannink's book *Handbook of Solution Focused Conflict Management* (2010), Cambridge MA: Hogrefe Publishing.**

By means of so called "scaling questions," mediators can help their clients to express complex, intuitive observations about their past experiences and estimates of future possibilities. Scaling questions invite clients to put their observations, impressions, and predictions on a scale from 10-0. Scaling questions have great versatility. They can be used to access the client's perception of almost anything, including investment in change, willingness to work hard to bring about desired changes, prioritizing of problems to be solved, perception of hopefulness, and evaluation of progress (De Jong & Berg, 2008).

*In a mediation of a divorce case, the mediator says to both clients: Here is a different kind of question, one that puts things on a scale from 10 to 0. Let's say that 10 equals the "best-case scenario": how your life would be when all is going very well and 0 equals how bad things were when you made the appointment to see me. Where are you on that scale today? And where would you like to be at the end of this mediation?*

## Scaling pre-mediation change

It is a common assumption that change begins when the mediator starts to help clients solve their conflict. Before the mediation starts, they are said to be "stuck." However, when asked, some clients report positive change between the time they made the appointment and the first meeting with the mediator. Pre-mediation change exploration often reveals new information about what has been helpful and can be used again to build solutions.

## Scaling progress

De Shazer (1991) states that it is difference itself that is an important tool for professionals and clients. It is not simply that there are differences which make a difference. In and of themselves, differences are just differences, they do not work spontaneously. Only when recognized, they can be put to work to make a difference. Solutions are often built from formerly unrecognized differences. Wittgenstein (1968) states that exceptions lie already on the surface, you do not have to dig for them. The aspects of things that are most important for us are hidden because of their simplicity and familiarity. We are unable to notice something, because it is always before one's eyes. The mediator, having heard and explored these exceptions to the conflict, then compliments the clients for all the things they have already done.

Change is happening all the time and the role of the mediator is to find useful change and amplify it. Since mediation is about change and helping clients to make a better future (Salacuse, 2000), questions about positive differences are considered important. What difference would it make when your best hopes become reality? What would you be doing differently? How would

your relationship with the other person(s) differ? What would they be doing differently? (Bannink, 2008/2009; 2009ab; 2010ab)

*When the conflict was there to a lesser extent, what was different then?*

*What were you doing differently and what was the other person doing differently?*

*How was your relationship different back then?*

Questions about exceptions can be useful, since they may reveal what was working in times when the relationship was better. Some things that were helpful in the past may be used anew to improve the relationship.

Scaling questions can also be asked in order for the mediator to assess improvements between mediation sessions. These questions also serve to measure and speed up progress in the mediation, and to measure and stimulate hope, motivation, and confidence.

*The mediator begins later sessions by asking: What is better? This reflects the conviction that solutions are built from the perception of exceptions. Therefore, questions about progress are very useful to the clients. Progress can then be put on a scale. Where would you say you are right now on the same scale we talked about last week? Why is it one point up? How did you do that?*

### **Scaling hope, motivation and confidence**

Scaling questions about hope, motivation, or confidence can be used to find out how hopeful, motivated, or confident clients are that the mediation will be successful. These questions can be very useful at the start of mediation. Moreover, scaling questions are equally valid for the mediator, who can assess his own motivation, confidence, and hope. The mediator can ask scaling questions about motivation:

- *If 10 means that you will do anything to reach your hoped for outcome and 0 means that you will just wait and see, at what point on the scale are you right now?*
- *When clients give a high score, for example 7 or 8, you may ask, where does this willingness to work hard come from?*
- *When clients give a low score, for example 2, you may ask: How did you manage to reach 2, why is it not 0 or 1? The follow-up question could be: What would 3 look like? And: What is required to move up one point on the motivation scale?*
- *Suppose you would give your motivation a higher score, what would you notice different about yourself? What would be different in your relationship with the other person?*

The mediator can also ask how *hopeful or confident* clients are that they will reach their preferred future:

- *If 10 means that you are completely confident that you will reach your hoped for outcome and 0 means that you have no confidence at all, where on the scale would you say you are right now?*
- *When clients give a high score, you may ask: You seem to be the type of person that, once a decision to tackle something has been made, has a strong belief that he will succeed. Or: Where does this high level of confidence (or hope) come from?*
- *When clients give a low score, for example 3, you may ask: How did you manage to reach 3 despite the situation? What would one point up look like? What is needed to move up one point on the scale? What can you do yourself and what do you need from the other person?*
- *Suppose your confidence (or hope) was somewhat higher, what would you notice different about yourself? What would you be doing differently? What would be different in your relationship with the other person(s)?*

### **Scaling respect**

In conflicts the mutual respect is often reduced to a minimum. Clients no longer see each other as a person, a subject, but as an object. Once the other was seen as a subject, maybe even with compassion, but has now become an obstacle. Everything would be OK if the other would no longer be there. The other person is in this way always seen as less. Only when someone stops seeing the other as an object, there may be a turning point in the conflict, as any mediator knows. This could again bring equality and reciprocity. From decades of studying what makes marriages work Gottman (1994) concluded that anger and engagement in conflict can be healthy and productive forms of negativity, whereas expressions of disgust and contempt are far more corrosive. To address the topic of respect, the mediator may ask clients a scaling question about respect - contempt:

- *If 10 means that you have all possible respect for the other(s), and 0 means you have no respect at all, where would you say you are right now?*
- *Why is it not less?*
- *What mark would you like to reach in the future, since you will continue having contact with each other?*
- *What is already working in the right direction?*
- *What would be a next step or a next sign of progress?*

### **Scaling collaboration**

Schelling (1960) asked: 'If the zero sum is the limiting case of *pure conflict*, what would then be the other extreme?' It must be *pure collaboration*, he says, a non zero sum game in which the players win or lose together, having identical preferences regarding the outcome. In such a game it is important that the players understand each other, to discover patterns of individual behavior that make each player's actions predictable to the other; they have to test each other for a shared sense of pattern or regularity and to exploit clichés, conventions and impromptu codes for signaling their intentions and responding to each other's signals. They must communicate by hint and by suggestive behavior. Two vehicles trying to avoid collisions, two people dancing together to unfamiliar music, or members of a guerrilla force that become separate in combat have to

concert their intentions in this fashion, as do the applauding members of a concert audience, who must at some point 'agree' on whether to press for an encore or taper off together.

Scaling questions along the dimensions of pure collaboration - pure conflict can be helpful to find out where clients are on the scale of collaboration and what they are hoping for. Especially when there will be an ongoing relationship in the future, in divorce cases, in teams, with neighbors or with families, these questions can be very useful. The same kind of questions that can be used for respect and contempt can be used here.

Ballreich and Glasl (2007) developed a model of scaling escalation in conflicts: the *escalation ladder*. They imagine the escalation process not as an ascending ladder, but as a descending one. Each new level of escalation restricts the options for action of the clients involved. The escalation process is seen as a process of successive closings of alternatives for action and the opening of new, although restricted, ones. On the individual level, this restriction of alternatives for action corresponds to a cognitive and moral regression. The three phases of escalation can be described as follows.

In phase 1, the clients are aware of the existence of tension and conflicts of interests, but are still attempting to find a solution by means of communication. The conflict can be described as a problem. The behavior is oriented toward cooperation. From the point of view of *game theory* the game is still a *win-win game*.

In phase 2, tension is generated not just by the conflict itself, but also by the manner of interaction and relationship between the clients. The issues at stake in the conflict expand and at the same time, the reciprocal perceptions change to the point where stereotypes develop. Mistrust and lack of respect between clients prevent direct communication. Cooperation-based strategies are abandoned and clients are primarily interested in enforcing their own interests, even against the other(s). The conflict can be described as a fight. The game shifts to a *win-lose game*.

In phase 3, the actual conflict recedes into the background and its place is taken by the negative relationship between the now hostile clients. The prime goal now is not to enforce their own interests, but to destroy or damage the other(s). There is now a complete lack of respect or dignity. The conflict can now be described as a war. In the end, further intensification of the conflict can even end with fanatic self-destruction. The game has now shifted to a *lose-lose game*. The mediator may explain the escalation ladder and ask:

- *Where are you now on this scale?*
- *What would happen if you do nothing?*
- *What would happen if you were one or two marks further down the ladder (if possible)?*
- *What will be the costs and what are the dangers?*

With this the hope is that clients will come to realize that the costs of a further deterioration will be too great. From there on, clients are invited to consider the possibilities of de-escalation. This form of using scaling questions – first detailing the consequences of a 'worse' or even 'worst

case scenario' – can also be applicable to conflicts where neither client is prepared to compromise by taking the first step towards a better future.

A positive form of 'escalation' can be found when clients start building solutions to reach their preferred future without the conflict. Therefore escalation can also be about the clients' desired outcome in the future instead of the undesired outcome in the past: their 'best case scenario'. Using scaling questions can be a very helpful tool for mediators and clients in building solutions to their preferred future: the future with a difference (Bannink, 2008).

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