

ACR-GNY Roundtable Breakfast | April 7, 2022

ZOOM MEETING PUBLIC CHAT TRANSCRIPT

- 00:44:45 Niki Borofsky | JAMS, London: Welcome to the 248th Roundtable Breakfast!
- 00:45:20 Niki Borofsky | JAMS, London: Welcome to everyone joining today's ACR-GNY & John Jay Roundtable Breakfast! A video recording of this session will be posted next week here: <https://acrgny.org/RTB-Videos>
- 00:48:56 Emily Skinner - Newark,NJ: Join us at the 2022 Virtual Annual Conference. Register Now for Early Bird Rates! <https://www.acrgny.org/event-4755338>
- 00:49:05 Niki Borofsky | JAMS, London: Learn more & Register for ACR-GNY's Annual Conference | <https://acrgny.org/event-4755338>
- 00:49:42 Niki Borofsky | JAMS, London: Welcome to Sharon B. Press | <https://mitchellhamline.edu/biographies/person/sharon-b-press/>
- 00:50:40 Sharon Press, Saint Paul MN: and I grew up in Jericho, NY!
- 00:50:54 Niki Borofsky | JAMS, London: Welcome to Ellen E. Deason | <https://moritzlaw.osu.edu/ellen-e-deason>
- 00:52:45 Niki Borofsky | JAMS, London: The article | Mediation: Embedded Assumptions of Whiteness? By Sharon Press and Ellen E. Deason
22 Cardozo Journal of Conflict Resolution 453 (2021)
SSRN link: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3869110
- 00:53:08 Niki Borofsky | JAMS, London: To engage, please raise your virtual hand!
- 00:53:19 Niki Borofsky | JAMS, London: The "Raise Hand" function is located under "Reactions", "More" or "... " menu in Zoom | Shortcuts: Mac [Option + A]; PC [Alt + A]; for those joining by phone you can raise your hand by dialing [dial *9]
- 00:54:27 Sally Dear-Healey, Binghamton, NY area: My error - sdearhealey6@gmail.com
(need more coffee!)
- 00:54:52 allanmarks: Title and author of book that provoked the article?
- 00:55:11 Niki Borofsky | JAMS, London: Me and White Supremacy By Layla F. Saad | <http://laylafsaad.com/meandwhitesupremacy>
- 00:55:27 Sharon Press, Saint Paul MN: Thanks Niki

- 00:55:47 Pierre de Ravel d'Esclapon: do you mean systematic issues or systemic issues?
- 01:03:52 Pierre de Ravel d'Esclapon: Can you make clear that your analysis is not universal but only applies in the uniquely American historical context and does not apply to other countries or to mediation in other countries
- 01:06:21 Cynthia BOYCE: White supremacy concepts do permeate in other Western cultures throughout the world
- 01:07:22 Fastgirls (she/her): My reflex to police tone of voice and how to talk shows up with my children and not as much with adults. I am noticing when I am in an authoritarian posture I stifle expression.
- 01:07:27 Mark Kleiman: Even without great racial, social diversity every culture has diverse classes where this applies.
- 01:07:34 allanmarks: Can side conversations or disagreements be raised after the presentation?
- 01:08:13 Colonel Pratt (Hopewell, VA): While America has a unique form of white supremacy, I would encourage folks to get insight from POC in their own context (USA or elsewhere) to find out whether and how white supremacy might show up in their experience.
- 01:08:24 Thyanda Mack (she/her/they/them): White supremacy culture may look different in different cultures. However colonization spread the ideas and practices around the world. Further, it is internalized for folks of all races.
- 01:09:16 Thyanda Mack (she/her/they/them): There is some irony in the attempts to tone police the chat...
- 01:09:42 Eileen Kaleel - Thousand Islands: thank you Colonel. I was just wondering a POC point of view would be on this. Because I can see myself slowing down a conversation simply as a mediator to ensure I fully understand and hear, not necessarily to interrupt the tone or flow
- 01:09:42 Colonel Pratt (Hopewell, VA): +1 Thyanda
- 01:10:57 Andrew Larratt-Smith: As a Canadian, I can certainly attest that White Supremacy manifests in the Canadian context.
- 01:11:37 Lu - Utica, NY: Every person needs to examine their intersectional lens to determine what biases they hold. I agree, any culture has bias about others in the culture - humans have a lot of evolving to do!
- 01:11:48 Niki Borofsky | JAMS, London: Mediation: Embedded Assumptions of Whiteness?, 22 Cardozo J. Conflict Resol. 453 (2021). available for free at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3869110

01:13:19 Cynthia BOYCE: This discussion speaks to why diversity is key in mediation. Parties should be able to request mediators with whom they are comfortable,

01:13:48 Cynthia BOYCE: Please provide Isabelle's full name

01:14:01 Jess Kent: @Cynthia - YES! And, I wonder how many mediators actively co-mediate to attend to the needs of their clients.

01:14:17 Sharon Press, Saint Paul MN: Isabelle Gunning

01:14:55 Niki Borofsky | JAMS, London: Isabelle Gunning | <https://www.swlaw.edu/faculty/full-time/isabelle-gunning>

01:15:29 Cynthia BOYCE: Thank you Niki

01:16:22 Elyn Rabinowitz: In this context that Sharon is discussing - thinking of how Brett Kavanaugh was able to express his anger at his Supreme Court hearing and was completely accepted by the white Republicans vetting him on this but that Ketanji Jackson was not "allowed" to express any rage or anger at her interlocutors on the committee, expected to be calm throughout.

01:16:43 Eileen Kaleel - Thousand Islands: yes

01:17:20 allanmarks: Respect seems to me to be born of either admiration or fear

01:17:25 Niki Borofsky | JAMS, London: QUESTION: What does respect mean in the context of mediation?

01:17:32 Pierre de Ravel d'Esclapon: For an illustration of why the concept of white supremacy, granting it might exist in some places, cannot be used in other countries without twisting the philosophical underpinnings into pretzels.
<https://www.cambridge.org/core/journals/china-quarterly/article/abs/more-than-a-category-han-supremacism-on-the-chinese-internet/10DDFA7B3E9EC93372EE10201C994790>

01:17:42 Sam Browning-Binghamton (she/her/hers): She is female also, second judgement

01:17:54 Thyanda Mack (she/her/they/them): Instead of asking folks with respect, maybe we define the specific ways that we are asking folks to treat each other, for example asking folks not to interrupt each other and explain that I can't hear them if they do

01:18:10 Eileen Kaleel - Thousand Islands: yes!!!!

01:18:48 Andrew Larratt-Smith: I think respect is complicated because it has at least 3 different meanings: 1) Human Dignity, 2) Admiration, 3) Deference to Status - I think the 3 meaning is the one we need to most mindful of in hierarchies of racial power.

01:18:54 Gizem Alper- Pace: How can the mediator facilitate respect amongst parties?

01:19:36 Jess Kent: Does the research/suggestions differ for the format of a mediation (i.e. respect in a virtual setting versus in-person or hybrid model)?

01:21:02 Colonel Pratt (Hopewell, VA): I've found that it's important to critically question terms; who or which group is promoting certain vocabulary, who was included or excluded from the agreed definition of terms, who benefits from the defining a term in a certain way?

01:21:08 Kim Reisch-Canandaigua, NY: Thanks for the Transformative Mediation shout out. Guidelines are not a mediator driven activity in that model of mediation!

01:21:18 Pierre de Ravel d'Esclapon: Having mediated in English and in French I can attest that the tone used to convey respect is not the same. I would be interested in the experience of our Spanish speakers or Chinese etc

01:21:25 Catherine Iannello - Jamestown NY: From my family's cultural lens respect is being up front, direct and honest. Someone who refuses to engage and is silent (deemed withholding or seen as dishonest) would be disrespectful if you are trying to solve a conflict.

01:22:18 Mark Kleiman: Tone is the quality that indicates importance to the parties that needs exploration. Not for control except in extreme after such acknowledgement maybe a pause. Equal status needs to be of greater importance as a framework to uphold.

01:23:02 Jess Kent: Great point, Catherine! How do individuals who refuse to engage encouraged in a mediation so they feel safe to share?

01:23:35 Jess Kent: How can mediators encourage individuals who refuse to engage?*

01:23:59 Melissa Segal: 100%!

01:24:55 Mark Kleiman: Tribalism exists everywhere. It also underlies our worst instincts.

01:25:28 Sally Dear-Healey, Binghamton, NY area: Background noise is distracting@

01:26:06 Eileen Kaleel - Thousand Islands: thank you Bathabile! I'm curious about this too. Can we learn from POC as our source of education and eventual understanding? Or is the best source of discussion and learning coming from another 'white source'?

01:27:01 Catherine Iannello - Jamestown NY: I think the point that was made was important - allow time to ask what respect means for the parties. In the case of a family, where culture may be shared it could be a different than when mediation for small claims, or community disputes.

01:27:03 Lori Schuldiner Schor (she/her): @Bathabile - Thank you!

01:28:55 Noelle Lee Okoth (she, her): Layla Saad and others also remind us that white people not only need guidance and direction from BIPOC folks, but also that it should be compensated and not demanded for free

01:29:06 Sharon Press, Saint Paul MN: YES!

01:29:07 Noelle Lee Okoth (she, her): ++ Bathabile

01:30:11 Diana: That's an excellent point Janice!

01:30:53 Saadia Ahmad (she/her/hers): what also makes this complicated is that no community is a monolith, including marginalized communities, and what works for one person in such a community would be harmful for another. which also emphasizes the importance of asking the parties

01:30:53 Cynthia BOYCE: Thank you Bathabile. Eileen, I think it is key that non BIPOC individuals do need to work of chatting among yourselves with feedback and informed by other cultures

01:30:53 Laura Fellows, CRJ Jamestown, NY: Mediators are often seen as the authority in the room. Establishing rules reinforces that.

01:31:05 Rita Callahan NYC: Instead of "ground rules", I prefer agreements about how we interact that the parties design.

01:31:13 Jess Kent: Yes, Laura - I agree about rules reinforcing imbalances.

01:32:10 Sam Browning-Binghamton (she/her/hers): Bravo Thyanda!

01:32:26 Noelle Lee Okoth (she, her): ++ Thyanda

01:32:49 E Haavi Morreim: *Thank you* Ms. Tudy-Jackson. I don't ever use/announce ground rules. If people need to yell at each other, then (up to a point), they need to yell! Generally, we can't get past that reality until the parties get through it. Yes, at a certain point I will make some effort to reel things in. But if that doesn't work, then clearly they need to vent some more before they'll be ready to settle down.'

01:32:52 Sally Dear-Healey, Binghamton, NY area: Such an important message!!

01:33:34 Jess Kent: Does a white caucus of mediators exist through this group to educate amongst ourselves intentionally against the expectations of whiteness in the mediation room? (That may differ from the efforts of diversifying mediator panels which is needed beyond racial confines too.) What resources are available beyond this session for mediator teams?

01:34:44 Eileen Kaleel - Thousand Islands: its a form of gaslighting

01:35:28 Tara Fishler, New Rochelle, NY: Sometimes in mediation, the parties are looking to the mediators to create a safe space. Parties may be used to raised voices or talking over each other and there may be implicit or explicit power imbalances that mediators may need to address. That can happen no matter the color, race or relationship of the parties. I think the key is to ask the parties to create their agreements. Asking them what they need from each other, which may include asking what respect looks like to them. I have experienced this as a party in divorce mediation.

01:36:06 Bathabile Mthombeni (she/her): ++ Tara!

01:36:19 Richard S.: "Color Blindness" is an manifestation of racism.,

01:36:21 Colonel Pratt (Hopewell, VA): +1 Tara

01:36:22 Claudia Frankel Grosman / São Paulo, Brazil: ++ Tara. We know that we don't know as a mediator. That helps a lot. Every interaction is different.

01:36:33 Karen Tibbals NJ: I think trauma also comes into play. Raised voices may trigger PTSD which makes the session useless.

01:36:57 Tara Fishler, New Rochelle, NY: + Karen

01:37:27 Pierre de Ravel d'Esclapon: The assumption here is that it is not possible to cotemplate a culture in which race is no more important or noticed than having blue eyes or brown eyes, being 6'5 vs 5'6?

01:38:02 Colonel Pratt (Hopewell, VA): Maybe a question to ask would be, "What do you need from each other to have a meaningful interaction today?"

01:38:04 Noelle Lee Okoth (she, her): @Karen, true, although it depends on the form of trauma. Racial traumas may be exacerbated by racialized treatment and disrespect within the session

01:38:13 Sally Dear-Healey, Binghamton, NY area: As a trauma informed practitioner/trainer, I urge you to consider all forms of potential previous trauma, including that which is intergenerational.

01:39:02 Sam Browning-Binghamton (she/her/hers): How about, as a mediator, we are here to help assure there is a safe environment for clarity. If anyone feels unsafe, please come forward and we will discuss it.

01:39:20 Tara Fishler, New Rochelle, NY: Does transformative mediation do a better job of allowing people to say what they want without mediators neutralizing it like in facilitative mediation?

01:39:52 Cynthia BOYCE: I include emotions when reframing to assure I fully understand what the individual is communicating

01:39:55 Richard S.: Color Blindness leads to a failure to "acknowledge and recognize how a person regards themselves and identifies their self in the community where they live.

01:39:56 Justin Strock: +1 Colonel, I love that phrasing. +1 Sally, mediators need much better trauma awareness, of all types

01:40:06 Eileen Kaleel - Thousand Islands: I prefer Transformative Mediation particularly because of these situations. My style as a mediator adjusts based on the people who are in the room and their needs.

01:40:26 Sam Browning-Binghamton (she/her/hers): Agree Eileen

01:40:28 Thyannya Mack (she/her/they/them): @Tara I've noticed I'm having the parties set ground rules that existing power dynamics may be at play in that part of the process as well. Folks don't always realize what may come up for them during the process or how they will respond.

01:41:09 Mark Kleiman: It needs to be a constant aspiration and requirement of self reflection. Differences exist always and experiences in life has an impact on what those differences mean.

01:41:10 Thyannya Mack (she/her/they/them): Leaving it open and being able to address what comes up really allows folks the most freedom to show as they need to

01:41:13 Tara Fishler, New Rochelle, NY: @Thyannya - so how do you handle that?

01:41:58 Thyannya Mack (she/her/they/them): Love that @Sam

01:42:06 Eileen Kaleel - Thousand Islands: ++ Thyannya. Hopefully I can continually remember that the mediation is not mine. It is the parties, and I am only there to move things along.

01:42:46 Karen Tibbals NJ: I have run groups that create ground rules prior to a session. I have found that some people know what they need, others have no idea until something happens and they react.

01:43:01 Bathabile Mthombeni (she/her): ++Karen

01:43:27 Tara Fishler, New Rochelle, NY: @Karen, that's why we talk about community agreements be an evolving document that gets revisited often

01:43:34 Eileen Kaleel - Thousand Islands: This topic of white silence is powerful.

01:43:40 Andrew Larratt-Smith: One problem with color blindness is that it relieves those of us who are white of any responsibility to do our own work to understand the dynamics of racism, examine our own complicity in white supremacy, and actively engage in anti-

racist activity. If we embrace color blindness, we can state that we don't see color and move on with our moral superiority intact.

- 01:44:01 Sharon Press, Saint Paul MN: I agree Andrew
- 01:45:48 Cynthia BOYCE: Of course I help parties explore inappropriate racist comments and behavior, usually in caucus
- 01:45:48 Thyannya Mack (she/her/they/them): In large groups, guidelines for engagement can be necessary. In mediation, approaching the conflict as you would any other issue that comes up. Taking the time to acknowledge the emotions that is coming up and asking the parties to explore that more deeply. If someone is affected by yelling, making space for them to say that and make a request of the other person can empower them and support building the relationship.
- 01:46:39 Niki Borofsky | JAMS, London: Maurice Robinson | <https://cardozo.yu.edu/directory/maurice-robinson>
- 01:47:05 Eileen Kaleel - Thousand Islands: so you're basically asking...where do we draw a line during mediation?
- 01:49:07 Kim Reisch-Canandaigua, NY: Is the whole idea of a "neutral" professional to handle your dispute a white supremacist idea?
- 01:50:12 Kathleen Roberts: Please address the relationship between these questions and the purpose/goal of mediation and the role of the mediator.
- 01:50:49 Niki Borofsky | JAMS, London: OPEN ROUNDTABLE
- 01:50:52 Colonel Pratt (Hopewell, VA): @Eileen yes and who is drawing the line? Who is included in how the line is drawn? Who benefits or is harmed by how that line was drawn?
- 01:50:57 Tara Fishler, New Rochelle, NY: @Kim - interesting concept, however, I think at least in the US, when families in all cultures are more cut off from larger family units, the idea of a safe, trained, neutral has been helpful for thousands of people.
- 01:52:12 Thyannya Mack (she/her/they/them): Yes!
- 01:52:25 Eileen Kaleel - Thousand Islands: TY Colonel. I think that's a huge discussion in itself. I'm aware of my whiteness, and my need to learn how that is experienced by others and how can I be white without inflicting that on anyone else. (makes sense?)
- 01:52:53 Eileen Kaleel - Thousand Islands: coddling white people. (excellent term)

01:54:06 Eileen Kaleel - Thousand Islands: does anyone else agree that there is so much in this topic today that there's no way to address any one area in depth - in this discussion today?

01:55:07 Rita Callahan NYC: Really appreciate the points being made right now

01:55:46 Melissa Segal: Yes! Thanks, Vay!

01:55:50 Noelle Lee Okoth (she, her): ++ Vay. For these conversations and ideas not to have been central to mediation for decades is really troubling - but they have not. Thanks to Ellen and Sharon for taking Layla Saad's admonition for white people to start talking to white people, and to do their best to raise this, with grace and humility in the face of inevitable critiques. So glad this conversation is started and that we will all start reshaping the field in the way it should have been done a long time ago

01:56:33 Thyannya Mack (she/her/they/them): Thanks Vay

01:56:34 Justin Strock: Thank you so much, Vay.

01:56:47 Eileen Kaleel - Thousand Islands: Thank you Vay. Thank you

01:57:19 Niki Borofsky | JAMS, London: Just as a reminder: Isabelle R. Gunning | <https://www.swlaw.edu/faculty/full-time/isabelle-gunning>

01:57:51 Susan Glatki - Western Massachusetts: We can only begin where we are, then keep learning, growing, improving, how we do what we do. - Just like the parties we mediate.

01:58:24 Susan Glatki - Western Massachusetts: You don't know what you don't know until you learn it.

02:00:30 Sam Browning-Binghamton (she/her/hers): excellent point Janice!

02:00:40 Teresa Calabrese she/her: Yes Janice!

02:00:44 Almitra, NYC (she/her): Brilliant Janice!

02:00:57 Rita Callahan NYC: Agreed!

02:00:59 Sharon Press, Saint Paul MN: remembering that mediation is their process!

02:01:04 Noelle Lee Okoth (she, her): Beautiful, thank you Janice!

02:02:07 Kathleen Roberts: I would add to Janice's questions to the participants what they want/expect from the mediator.

- 02:02:25 Maria R. Volpe -NYC: Mediation: Embedded Assumptions of Whiteness?, 22 Cardozo J. Conflict Resol. 453 (2021). available for free at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3869110
- 02:02:26 Moira Osorio: Amen Janice!
- 02:02:55 Sally Dear-Healey, Binghamton, NY area: Thank you Janice - this is such a critical point!
- 02:03:20 Rita Callahan NYC: Wow! Thanks for that insight Janice.
- 02:03:35 Sharon Press, Saint Paul MN: thanks Janice for sharing your reaction. such an important point. and we are so sorry for causing pain
- 02:03:53 Eileen Kaleel - Thousand Islands: wow Janice. thank you for shining a light on that. saving a few type strokes are certainly not worth the unintentional feeling it conveys.
- 02:04:23 Niki Borofsky | JAMS, London: Why the term "BIPOC" is so complicated, explained by linguists | <https://www.vox.com/2020/6/30/21300294/bipoc-what-does-it-mean-critical-race-linguistics-jonathan-rosa-deandra-miles-hercules>
- 02:04:26 Jess Kent: Brilliant feedback, Janice - thanks
- 02:04:27 Almitra, NYC (she/her): Excellent Janice thank you for articulating that for me. I was having a hard time understanding my reaction.
- 02:04:29 Noelle Lee Okoth (she, her): Thank you, Janice! What a perfect expression of why people-centered language is so important. And wonderful to watch the learning process in real time
- 02:04:56 Karen Tibbals NJ: latinx is another problematic term. The people it refers to don't like it!
- 02:05:06 Bathabile Mthombeni (she/her): Respectfully, I disagree. I appreciate the term. I don't feel dehumanized. I am conflict averse (Ha!) but I think that it is important for me to say this to demonstrate that there are many perspectives of thought within many communities.
- 02:05:17 Niki Borofsky | JAMS, London: A bit of an aside... you can read more about Janice (and other fabulous dispute resolution leaders) on her ACR-GNY profile page here: <https://www.acrgny.org/Sys/PublicProfile/1840680>
- 02:06:25 Sharon Press, Saint Paul MN: Thanks Bathabile for continuing to remind us that there is diversity of thought and perspectives

02:06:25 Colonel Pratt (Hopewell, VA): @Karen I have friends who take pride in the term Latinx and others who prefer Latin@ it's important to allow people to tell you what they like.

02:06:40 Bathabile Mthombeni (she/her): ++Colonel

02:07:59 Almitra, NYC (she/her): Word Thyanda

02:08:14 Eileen Kaleel - Thousand Islands: the power to recognize individuals...for how they wish to be recognized...no matter their skin, culture, lifestyle choices, etc, etc. obviously not just a race issue

02:09:03 Noelle Lee Okoth (she, her): Congratulations, Colonel

02:09:04 Rita Callahan NYC: Thank you so much, even though this discussion has shaken my foundation as an ombuds & conflict resolution professional. Just the tip of the iceberg. Hope we (list serve & ACRGNY) do more.

02:09:05 Karen Tibbals NJ: ++ Colonel

02:09:48 Sam Browning-Binghamton (she/her/hers): Great Point!

02:10:01 Sharon Press, Saint Paul MN: next step for us is operationalization... training is a great start!

02:10:10 Tara Fishler, New Rochelle, NY: I think it highlights that every PERSON will feel differently about different terms and situations. I think its great to highlight that some people are offended by BIPOC and Latinx and others like it. As a writer and speaker, it does become challenging to know how to refer to people to honor everyone and not cause harm. I don't know the answers, but welcome opinions.

02:10:50 Chris Daly - NYPI (she/her): I agree with you, Colonel, these questions on identity and power must be centered throughout the entire mediation training.

02:11:48 Cynthia BOYCE: Thanks for the rich discussion. Have to run. Great to see many familiar faces and many more new one

02:12:29 Julie Denny Princeton, NJ: Bye Cynthia! great to see you again!

02:13:49 Richard Brigham, Wisconsin: Extraordinary discussion. Thank you from Wisconsin.

02:13:49 Almitra, NYC (she/her): Bernard S. Mayer & Jacqueline N. Font-Guzmán PhD JD MHA. just released a great book on this The Neutrality Trap
https://www.amazon.com/dp/1119793246/ref=cm_sw_em_r_mt_dp_R7D98570EKHOP3Z35FQF?_encoding=UTF8&pisc=1

02:13:55 Sally Dear-Healey, Binghamton, NY area: Excellent discussion - thank you!

02:13:57 Niki Borofsky | JAMS, London: Thank you to everyone!

02:14:02 Pam Manning Savannah, GA: Great conversation..... and Great work!

02:14:04 Almitra, NYC (she/her): Thank you excellent discussion

02:14:05 Evelyn Riera, Germany, Independent Mediator: Thank you!!

02:14:09 Dror Kahn Brooklyn, NY: Also thank you Niki Borofsky for the links.

02:14:19 Thyannya Mack (she/her/they/them): Thank you for opening the door to this conversation

02:14:23 Andrew Larratt-Smith: To Colonel's point, what should be required reading for dispute resolution professionals around race and racism? One article that comes to mind for me is Richard Delgado's 1985 piece Fairness and Formality:
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2101299