

POWER IMBALANCES: SOME PROPOSITIONS

- Mediation can provide procedural equality but cannot usually alter the basic power relations between the parties
- Mediators should discourage the use of power which is incongruent with the consensual process of mediation e.g. threats, intimidation, sanctions.
- Ethical dilemma:

To maintain the integrity of the process which is based on mediator neutrality without letting the process be used to violate important interests of the community or of interested parties.

- Power In Mediation:

“Perhaps the most that should be expected from mediation is that it does not exacerbate inequities nor prevent people from obtaining support, redress or assistance that might otherwise be available to them”.

Dr Bernard Mayer, CDR Associates

- In performing their duties in relation to power in mediation, mediators can:
 - provide access to data for all parties
 - ensure each party has an opportunity to be heard and to speak
 - help to differentiate interests from positions
 - assist in development of options
 - assist in evaluation of alternatives (BATNA)
 - assist in “reality testing” or putting the problem and the suggested options and alternatives in perspective.
- Sources of **mediator** power
 - derived from the parties
 - control over the process
 - control over framing of the issues
 - impartiality.
- Sources of **parties’** power: Mayer’s ten sources
 - formal authority
 - expertise/information
 - association
 - resources
 - procedures
 - sanctions
 - nuisance
 - habit/status quo
 - morality
 - personal attributes.

