



# University of Kent

*Workshop on “New Approaches to  
Conflict Transformation: Trust,  
Empathy and Dialogue”*

David Davies Memorial Institute of  
International Studies, Aberystwyth  
University, 23-24 June, 2010

Presentation of Samuel Passow for  
Session II: Conflict Transformation  
and Dialogue



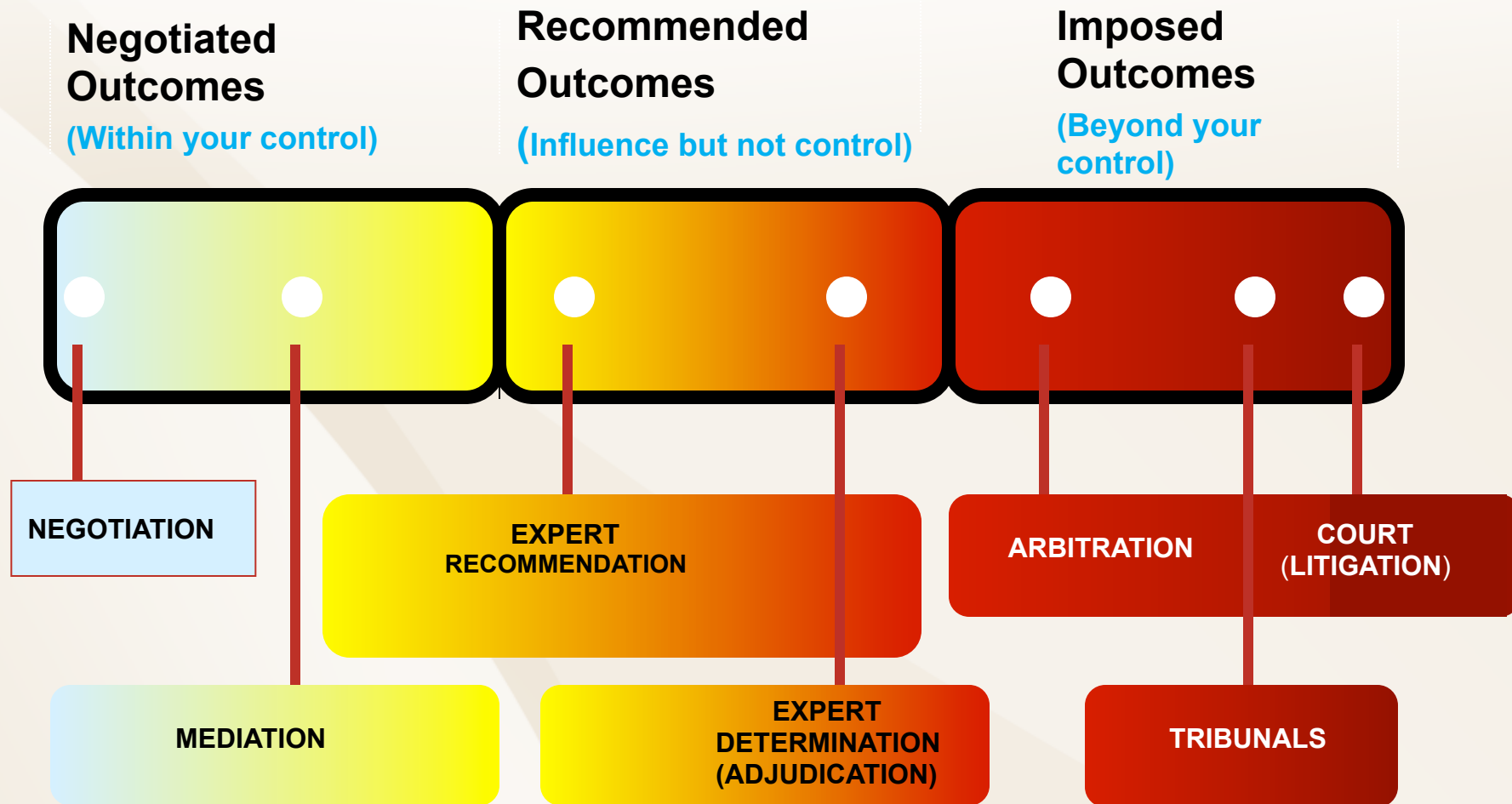
Conflict Analysis  
Research Centre

# Essential Elements of Negotiation & Mediation

## Elements of Negotiation

- Temperature
- Tensions
- Temperament
- Tactics
- Trade-Offs

# Spectrum of Dispute Resolution



# The Six Tensions of Negotiation & Mediation

- Claiming v Creating Value (Mnookin/Harvard)
- Assertiveness v Empathy (Mnookin/Harvard)
- Principal v Agent (Mnookin/Harvard)
- Apology v Liability (Passow/CEDR)
- Explanation v Information (Passow/CEDR)
- Closure v Settlement (Passow/CEDR)

# Managing The Six Tensions

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- The role of the mediator is to manage the tensions so they become opportunities not obstacles.
- Sophisticated facilitation requires the mediator to communicate and clarify his understanding of the tensions.

# Claiming v. Creating Value

- Parties whose strategy is only to **claim** value, view negotiations as a purely distributive process. Gains are only made at the expense of other's concessions.
- Parties whose strategy is to **create** value understand that they can get more at the negotiation table than they would away from it. **Bettering their alternative.**



# Assertiveness v Empathy

- This tension is between how strongly we try and put over our view of a dispute, how strongly we try and defend our position -- while at the same time -- trying to understand the other side's view - putting ourselves in their shoes.
- *Is there a danger that by trying understanding the other side, we undermine our own position?*
- *If we show that we are empathetic, will the other side be more willing to make concessions?*

# Principal v Agent

- This is a tension that can occur anytime a party to a negotiation involves more than one player. In such a case, whose “best interest” is really being served by the outcome. These interests include personal and professional reputations, financial stakes, political power, etc.
- *This tension in a commercial negotiation is usually most apparent between client and lawyer. It often occurs in diplomacy when politicians are involved.*



# Apology v Liability

- This tension is between the claimant who seeks a tangible acknowledgement which “legitimises” their pain and suffering, and the defendant, who fears that any such admission will make them responsible for compensation.
- *How do we deal with a culture that openly allows advertisements which say: “If there’s blame there’s a claim!” ?*

# Explanation v Information

- This is a tension between a claimant who emotionally needs to understand why something in particular happened to them and the defendant, who addresses the situation from a dispassionate and general point of view.
- *If you tell someone the facts of **Who, What, Where** and **When**, is that enough for them to understand **Why**?*

# Closure v Settlement

- This tension is over understanding the outcome. The end-game of negotiation/mediation is to arrive at an solution that both sides can live with. An outcome which either restores a relationship or allows parties to part amicably is a solution which allows the parties to close that chapter in their lives an “move on”.
- An outcome which is purely distributive, will more often than not, leave a taste of bitterness. In such cases, even when both sides feel that they have “won”, it is not uncommon for one or both to walk away from the table and wonder how much more they might have got if they had only bargained harder.

***WINNER'S REVENGE***