ISSA Proceedings 2014 – A Mediator As A Pragma-Dialectical Critical Designer Of Acceptance

Abstract: Starting from the layout of the five components of the pragma-dialectical research program a mediator, the third intermediary in a mediation session, is characterized as a critical analyst and as a designer, i.e. a practitioner, of acceptance. On the spot of the mediation session she analyses the discourse and puts forward proposals to improve argumentative reality. Consequently the mediator is characterized as a pragma-dialectical critical designer of acceptance.

Keywords: argumentative strategy, critical question, facilitate, mediation, mediator, pragma-dialectical critical designer of acceptance, pragma-dialectics, research program.

1. *Introduction*

The research program of pragma-dialects has five components: the philosophical component, the theoretical component, the component of analysis, the empirical component, and the practical component (van Eemeren, Grootendorst, Jackson & Jacobs, 1993, pp. 21-25; van Eemeren & Grootendorst, 2004, pp. 11-41). The target of this paper is to present the mediator as a pragma-dialectical critical designer of acceptance. In order to achieve this target I show why a mediator can be characterized as a critical analyst and as a practitioner within the research program of pragma-dialectics. Thus, in this paper I particularly refer to the component of analysis that rests upon the research results from the theoretical component, and to the practical component of the research program.

2. *The research program of pragma-dialectics*

Van Eemeren and Grootendorst (2004, p. 41) envision in their introduction of the layout of the five components of the Realm of Argumentation Studies "to get an overall picture of the state of the art in the discipline, to distinguish different approaches from each other, and to indicate where there are genuine opportunities for mutual cooperation." A research program consists of its five components. Every component is distinct from, as well as related to the other components. Thus the layout of the five components is an option to separate and

to "cluster" the matters of argumentation research (cf. van Eemeren & Grootendorst, 2004, p. 41). Pragma-dialectics is a research program (cf. van Eemeren, Grootendorst & Snoeck Henkemans, 1996, p. 275).

In the philosophical component of pragma-dialectics, the philosopher characterizes "termini technici" by defining them (van Eemeren & Grootendorst, 1994, p. 11). Van Eemeren and Grootendorst (2004, p. 21) designate the "critical-rationalist philosophy" as the start of the research in this component in pragma-dialectics.

In the theoretical component of pragma-dialectics, the theorist uses terms to build a blueprint. Scopes and functions of the blueprint are characterized, e.g., for the use of the grid in accessible analyses of fragments from discourse. For instance, particular presuppositions are due, and particular means, such as translation criteria, are to be used in the analysis (cf. van Eemeren & Grootendorst, 1984; van Eemeren, Grootendorst, Jackson & Jacobs, 1993; van Eemeren, Houtlosser & Snoeck Henkemans, 2007). Apparently only those actual matters can be replaced for which there is a stand-in in the grid, thus the scopes of the grid are restricted (cf. van Eemeren & Grootendorst, 2004, p. 19, who employ the metaphor of a grid as a magnifying glass that constrains the matters in focus).

In the blueprint in pragma-dialectics protagonist and antagonist discuss about a claim to solve a problem through a problem-solving discussion. Thus the aim of problem-solving discussion is the solution of the problem, i.e. acceptance of the claim. Note that "acceptance of the claim" is determined in a sense within the connectivity of problem-solving discussion, thus "acceptance" is determined in a sense of pragma-dialectics. The parties apply argumentative strategies, i.e. they arrange modules of the blueprint oriented towards a particular aim. For example, critical questions are argumentative strategies because applying a critical question manifests a speech act that is a means to get to the aim of problem-solving discussion. In particular, I suggest that a critical question manifests the speech act "Requesting argumentation" (cf. van Eemeren & Grootendorst, 2004, p. 68). Voicing a critical question is an option to appear critical towards the application of an argument scheme. By asking a critical question the character voices the speech act "requesting argumentation ´to infer the very application of the argument scheme´".

In the component of analysis, the analyst uses the grid to reconstruct and evaluate fragments.[i] As the scopes of the grid are restricted the scopes of an analysis are restricted. For example, an analyst can reconstruct and evaluate argument schemes. Garssen (2001) presents the pragma-dialectical argument schemes and the respective critical questions. I want to spell out two functions of critical questions. First, they are means of the characters in problem-solving discussion to get to the aim of the solution of the problem. It is an assumption of the analyst that a person in a dispute can ask a question that a pragma-dialectical analyst can localize as a critical question in problem-solving discussion. In the blueprint it is characterized when and how an actual question is localized as a critical question.[ii] However, second, a critical analyst herself uses critical questions to test whether an argument scheme she has reconstructed has been employed "correctly" in the very constellation of the dispute (cf. Garssen, 2001, p. 91). I suggest that when an analyst uses a matter from the grid, e.g. a critical question, he "uses the grid". In pragma-dialectics, in order to apply the respective means to analyse a text the analyst´s intuition is required. The result of the analysis is an interpretation of the text and this interpretation is restricted to the scopes of the grid used.

In the empirical component, the empiricist does empirical research. The aim of empirical research is to refine (parts of) the blueprint. An empiricist tests whether the blueprint suits argumentative reality, whether it can be used to analyse discourse.

In the practical component, the practitioner has the target to improve argumentative reality. The research results from the other four components are used to arrive at that aim. Consequently, four practitioners can here be distinguished. For instance, the practitioner that uses research results from the theoretical component is the practitioner (theoretical). I want to present two examples of actual practitioners in pragma-dialectics.

First, in "reflection-minded" (van Eemeren, 1990, p. 43) teaching, a practitioner (theoretical) teaches students the grid. However, based on her skill with respect to analyses the same person as a practitioner (analytical-intuitive)[iii] teaches students to analyse fragments with the help of the grid. She supports to route the intuition of students in the sense of the grid. Argumentative reality is improved because she supports the students to achieve clarity to resolution processes in disputes in their everyday life as they can make use of the grid on the spot of their

conversations.

Second, the research results from the component of analyses can be made use of for the "design of discourse processes" (van Eemeren, Grootendorst, Jackson & Jacobs, 1997, p. 227). In this paper I present the mediator as a pragma-dialectical practitioner who particularly uses those research results. As a designer the mediator intuitively uses the "diagnostic power" (cf. van Rees, 2001) of the grid to facilitate getting to clarity to (how to) manage problem-solving discussion. The diagnostic power means not (only) that the grid can be used to anticipate what can go wrong (cf. van Rees, 2001, p. 459) but I suggest that it can also be used to present what is needed in a dispute in order to actualize the respective sense of reasonableness. Thus through proposals of this practitioner argumentative reality is improved "in a purposeful way" (van Eemeren & Grootendorst, 2004, p. 32). For example, making use of the diagnostic power of the grid an argumentation researcher in pragma-dialectics can spell out when an argument scheme has been *or will have been* employed correctly: "[…] if all the relevant critical questions that the antagonist in the dispute could ask can [will] be answered satisfactorily." (Garssen, 2001, p. 91)

3. *The mediation session and the target of the mediator*
I want to elucidate on some important terms I employ. I briefly refer to "mediation session" and "mediator". The World Intellectual Property Organization (WIPO) (2009, p. 2) establishes "mediation" as "an informal procedure in which a neutral intermediary, the mediator, assists the parties in reaching a settlement of the dispute." What is here spelled out as "dispute" in my terms means "conflict". In the course of a mediation session about a conflict there are utterances that the participants and the third intermediary put forward that can be reconstructed as matters from the sequence of problem-solving discussion. When I employ the term "mediation session" I refer to the course of those utterances. In a mediation session there are the participants and a mediator (cf. above: third intermediary). The target of a mediation session is the resolution of the disagreement between the participants. The target of a mediation session is achieved when the point of view about which the disagreement occurs is acknowledged by both participants.

The mediator has two targets. First, she wants to support the participants achieving a resolution of the respective disagreement. Second, she wants to appear neutral. In order to appear neutral a person actualizes a particular behaviour. In this paper I show that in order to achieve her targets the mediator

behaves like a critical analyst and like a practitioner (a designer of acceptance) in pragma-dialectics.

4. *The mediator as a pragma-dialectical critical analyst*

The mediator behaves like a pragma-dialectical critical analyst. As a critical analyst on the spot of the mediation session the mediator chains the discourse to matters from problem-solving discussion. Aakhus (2003, p. 284) employs the term "reconstruction in practical circumstances." The mediator checks whether or not the participants behave "correspondingly" to the grid, whether they particularly actualize problem-solving discussion. Thus, apparently as a critical analyst a mediator assumes in her reconstruction and evaluation that the utterances in the dispute are put forward by actual parties in an actual problem-solving discussion: "making a decision on the resolution of their conflict [disagreement], necessarily involves *critical reflection and evaluation* […]" as "[t]he communicative process in mediation [session] […] largely constitutes an argumentative discussion" (Greco Morasso, 2008, p. 104, italics by A.V.). Note that Greco Morasso writes "largely" which I suggested, too, with the sense that I established for "mediation session". The mediator as a critical analyst can put forward utterances in the dispute. Then she chains the content of her utterance to the results of her reconstruction and evaluation of the discourse.

As a critical analyst the mediator evaluates the discourse by intuitively making use of particular matters from the grid; she can employ an actual argumentative strategy. For example, as a critical analyst the mediator has the target to evaluate the actualization of argument schemes in a mediation session. Checking whether the actualization of an argument scheme is plausible is a means to support the participants achieving a resolution of the respective disagreement in accordance to the manifestation of reasonableness that is determined in the blueprint. Thus behaving like a critical analyst in pragma-dialectics in the course of a mediation session a mediator can ask a question that a pragma-dialectical analyst can locate as a critical question, i.e. right on the spot in the mediation session the mediator can make use of the grid. Jacobs (2002, p. 1414) writes:

[B]y asking questions, mediators can also perform argumentatively relevant tasks. In many respects, such questioning in context can substitute for the kind of advocacy that would be heard in direct rejections, open disagreement, and explicit argumentation.

Note, that Jacobs suggests that the mediator can employ questions to actualize an argumentative strategy because at the very constellation of the dispute the mediator may put forward *particular* actual critical questions as she seeks to accomplish her target to appear neutral. The mediator thus avoids ("substitutes for"), e.g., "direct rejections" yet achieves her target to evaluate the actualization of an argument scheme.

5. *The mediator as a pragma-dialectical practitioner*
The mediator behaves like a pragma-dialectical practitioner. It is plausible to assume that a mediator wants to improve argumentative reality in a mediation session (cf. van Eemeren, Grootendorst, Jackson and Jacobs, 1997; Aakhus, 2003; WIPO, 2009). As a practitioner the mediator improves argumentative reality in the dispute by chaining the discourse to matters from problem-solving discussion. The mediator supports reaching acknowledgment of particular matters from the stencil which have (not) been actualized in the mediation session. However, clarity and actual acceptability of matters from problem-solving discussion are needed as the basis to achieve acknowledgment of those matters.

Clarity to the matters should be a target in a mediation session. Jacobs (2002, p. 1423) writes that it is a mediator´s "official" behaviour to support the participants achieving clarity: "mediators […] officially act to clarify and inform" Clarity to the matters is yielded in the course of the mediation session as the mediator employs her argumentative skills for supporting to achieve clarity in the course of the dispute. For example, a means that the mediator can employ to support achieving clarity is a question: "The asking of questions thus functions not merely to perform such tasks as probing, clarifying […]" (van Eemeren, Grootendorst, Jackson & Jacobs, 1993, p. 138). With the actualization of clarity to a particular matter through a clarity formula a person spells out her commitment to "having recognized" that matter. The utterance "I get it." is not to be understood as a point of view. In a mediation session it makes no sense when one person asks another "Why do you recognize this?" Instead, the mediator may put forward that the person has spelled out clarity to that matter.

Clarity to a matter is needed for actual acceptability of that matter to occur. Acceptability of a matter is actualized when a person says that this matter "can be accepted". It does make sense to ask this person "Why do you say that this matter can be acknowledged?" Again, the mediator *can* actually facilitate that this question occurs. Thus the mediator supports reaching a clarity formula as to the

actual acceptability of the particular matter. Actual acceptance of a matter, in turn, is based actual acceptability of the matter.**[iv]**

The mediator may spell out her intent to intuitively make use of a pragma-dialectical grid and its diagnostic power to support achieving clarity to (how to) handle the discourse that has been stated, and to that which is advisable to be stated in the respective dispute. As clarity to (how to) handle the respective discourse is the basis for actual acceptance the mediator thus makes use of the diagnostic power of the grid to actually facilitate acknowledgment of the respective matters. When the mediator puts forward that and how particular matters from the grid have been actualized, or that and how particular matters from the grid are advisable to be actualized in the course of the dispute she appears neutral as to *content matters in the dispute* because she chains her proposals to (research results from) pragma-dialectics. Still she actually facilitates acceptance (in the sense of the grid).

Making use of Aakhus´ (cf. 2003) distinction I suggest that the mediator as a practitioner in a mediation session is a designer. She actualizes the character of a pragma-dialectical designer of acceptance: the "object to be designed" is the actualization of particular actions in accordance to, particularly, the respective statute of problem-solving discussion, the "environment in which the object is used" is the very dispute. The mediator does neither decide that any matter in the course of the mediation session *can* be acknowledged, i.e. that it is actually acceptable, nor that it *is* acknowledged, i.e. that it is actually accepted. The mediator *supports* the parties´ accomplishing acknowledgment of matters as she supports their achieving clarity to this matter.

6. *The mediator as a pragma-dialectical critical designer of acceptance*
The mediator can be characterized as a pragma-dialectical analyst because she has the argumentative competence of a critical analyst. She uses the grid, e.g. critical questions, as a standard in the analysis of speech acts in mediation. The mediator can be characterized as a practitioner because in pragma-dialectics a designer is a practitioner, and the mediator is a designer of acceptance as she facilitates acceptance of particular matters in mediation. Moves with the intention to get to clarity to and acceptability of particular matters are means to facilitate acceptance of those matters in mediation.

The mediator is a *pragma-dialectical* critical designer of acceptance. Acting like a

pragma-dialectical critical analyst and like a designer of acceptance she facilitates manifesting problem-solving discussion (cf. Greco Morasso, 2008, p. 14 who writes the mediator is a "facilitator of parties´ communicative interaction"). As "an architect of the dispute" (Greco Morasso, 2008, p. 14) the mediator pursues "to realize the [*pragma-dialectical*] ideal in practice." (van Eemeren, Grootendorst, Jackson & Jacobs, 1993, p. 174)

In order to arrive at her aims to appear neutral and to facilitate acceptance of particular matters from problem-solving discussion (to facilitate arriving at the solution of the problem) the mediator as a pragma-dialectical critical designer of acceptance instantly analyses in the sequence of mediation with the help of the grid and instantly voices her recommendations, e.g. by asking critical questions.

The mediator uses her intuition to instantly reconstruct the speech acts; just as the parties instantly reconstruct the speech acts in problem-solving discussion (cf. van Eemeren, Grootendorst, Jackson & Jacobs, 1993, p. 92):

If an analytic account of a sequence is given [by the mediator] in which certain reconstructed commitments of a protagonist are used to explain the sense and force of an antagonist´s response, the account implies that the antagonist has performed or could perform a similar sort of reconstruction.

For example, in article 17 WIPO (2009, p. 13) states that "the mediator and the parties shall not introduce" in any other context, e.g., "(i) any views expressed or suggestions made by a party with respect to a possible settlement of the dispute" and "(ii) any admissions made by a party in the course of the mediation [session]". Note that in order to behave in accordance to that article there must be clarity to which utterances in the dispute are "views expressed", "suggestions made" or "admissions made" by the participants. Accordingly, as a critical analyst with the aim to "improve argumentative reality" the mediator reconstructs a speech act, for example, as a "view expressed". The result is clarity to this matter which is the groundwork for acceptance of this matter.

As a pragma-dialectical critical designer of acceptance the mediator instantly manages particularly those matters that she senses to be important in order to solve the problem. For example, as a critical analyst with the aim to "improve argumentative reality" the mediator facilitates acceptance of the presuppositions of problem-solving discussion in mediation: "Turn 120 questions a pragmatic

presupposition of the mediation activity itself." (van Eemeren, Grootendorst, Jackson & Jacobs, 1993, p. 128) The mediator´s recommendations rest on her reconstruction and evaluation and are manifested by, for instance, "the ´*educational* work´ [s]he makes for bringing them [the parties] to argumentation" (Greco Morasso, 2008, p. 272, italics by A.V.). As a critical analyst with the aim to "improve argumentative reality" the mediator as a pragma-dialectical critical designer of acceptance applies argumentative strategies. For example, she can ask questions that come up to the function of critical questions and thus "more or less strongly suggest a particular answer" (van Eemeren, Grootendorst, Jackson & Jacobs, 1993, p. 137). As critical questions are matters from the grid the mediator uses the grid. Since applying a critical question manifests a speech act that is a means to get to the aim of problem-solving discussion the mediator applies an argumentative strategy.

7. *Summary*
In this paper I made use of the form of five components of pragma-dialectics as a means to present the character of a mediator as a pragma-dialectical critical designer of acceptance. In order to achieve "clarity to the matters" (van Eemeren & Grootendorst, 2004, p. 24) I characterized the mediator to act like a critical analyst and like a designer of acceptance in pragma-dialectics. The grid connects critical analyst and practitioner. As a pragma-dialectical critical designer of acceptance the mediator applies argumentative strategies, e.g. critical questions, to appear neutral yet facilitate manifesting problem-solving discussion.

I suggested that clarity to, acceptability of and acceptance of the matters in problem-solving discussion yield the groundwork for arriving at a solution of the problem in mediation. However, "[v]erbal externalization of acceptance (or non-acceptance) by the listener [which] means that the mutual obligations between the interlocutors are firmly and clearly established" (van Eemeren & Grootendorst, 1984, p. 57) is a means to achieve the resolution of the disagreement and thus it is a means to resolve the conflict in a mediation session.

NOTES
i. Cf. Vesper´s PhD (2015) why in pragma-dialectics an analyst is a "critical analyst".
ii. Likewise, in the blueprint other matters, e.g. "acceptance", are determined and it is characterized when and how an utterance can be localized as, e.g., acceptance.

iii. Cf. Vesper´s PhD (2015) why I label the pragma-dialectical component of analysis the "analytical-intuitive component".

iv. Cf. Vesper´s PhD (2015) for the relationships of clarity, acceptability, and acceptance – particularly in mediation.

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