



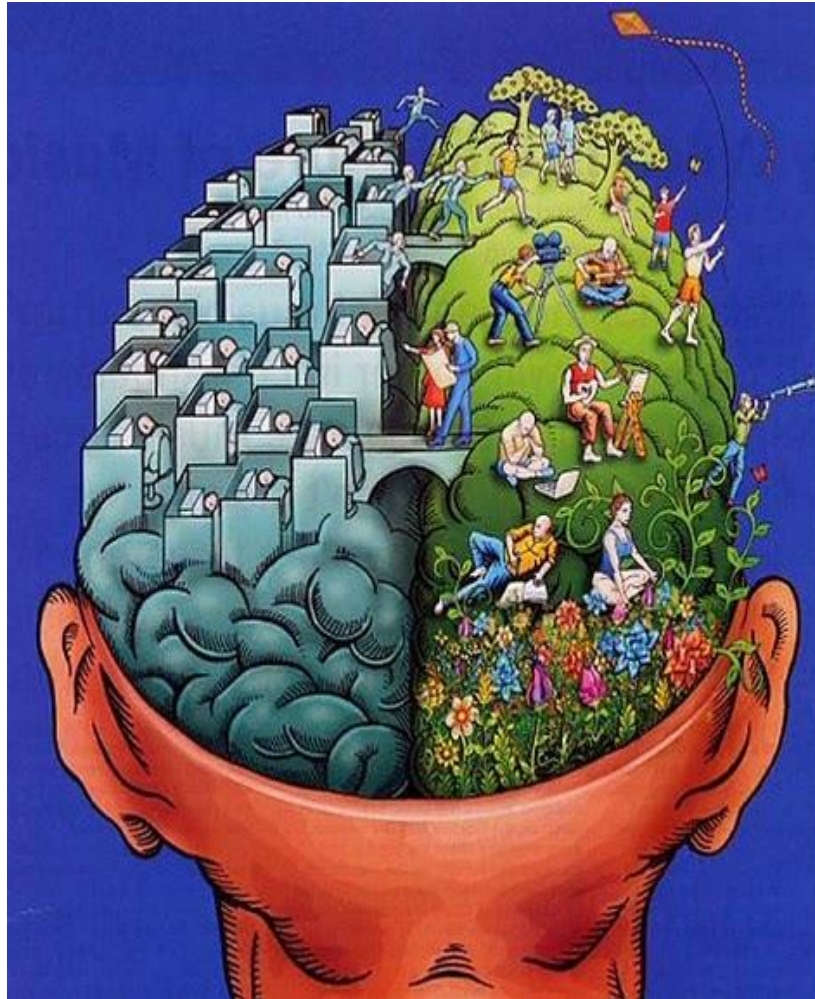
**IS THE FORMALISATION OF MEDIATION STANDARDS AND PROCESSES A
BARRIER TO THE TRANSFORMATION OF MEDIATION AS A PROFESSION?**

BY EBRAHIM PATELIA

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A CRITIQUE OF STANDARDS

Formality leads to the diminishing room for the creative and organic development of mediation. This is how mediation developed so, why fix it



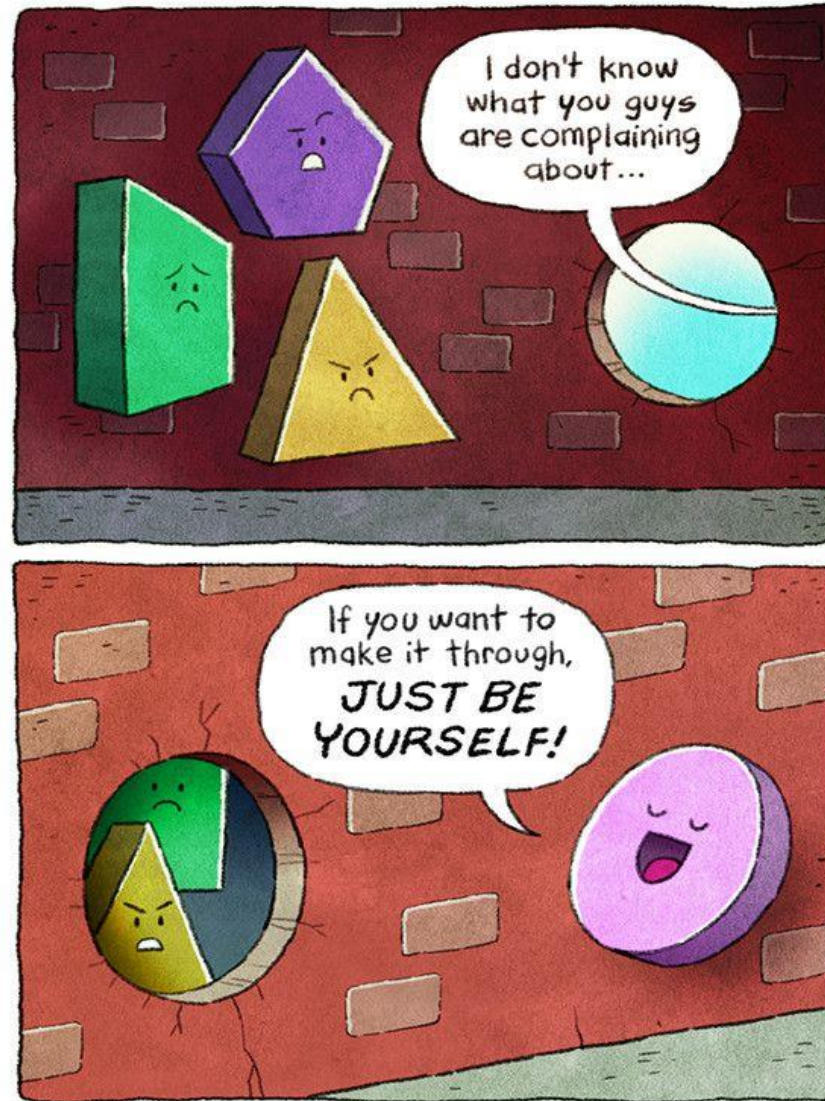
A CRITIQUE OF STANDARDS



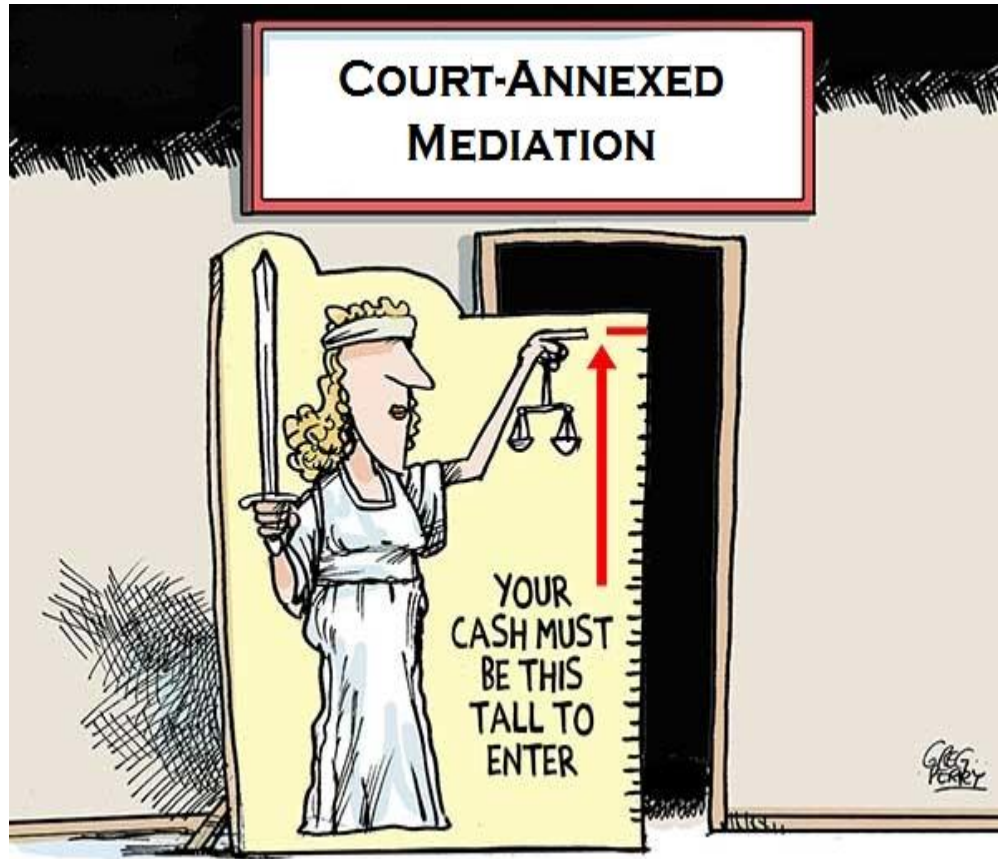
Standards are
created to make the
bar so high that it
becomes
unachievable for the
majority

STANDARDS AND FORMALITY THROUGH DISAC/NABFAM

The over-
formalisation of the
standards from
foreign jurisdictions
and lack of flexibility
in adapting to the
local environment



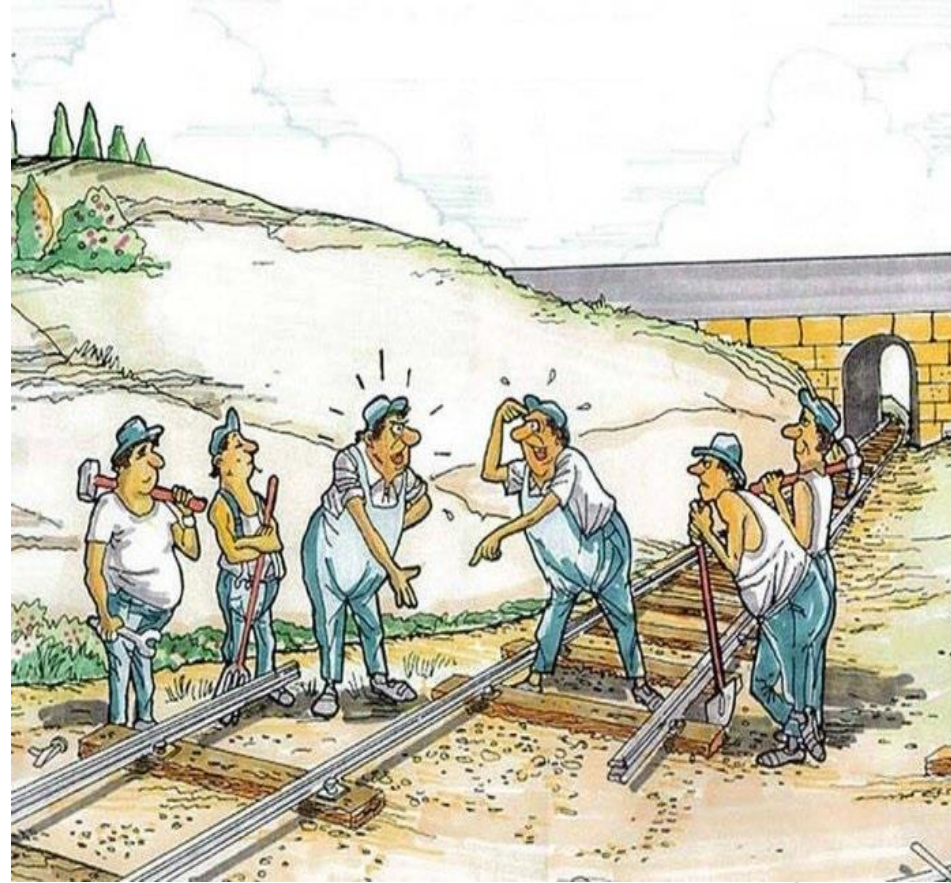
A REFLECTION OF THE LAST 10 YEARS



The court-annexed mediation rules have been formalised and to a large extent are not as successful in achieving the objective of access to justice.

A REFLECTION OF THE LAST 10 YEARS

A fragmentation of the mediation industry and a lack of trust that has evolved. We seem to be working in silos without any leadership.



A REFLECTION OF THE LAST 10 YEARS



Hundreds if not thousands of mediators are trained and marketing themselves as mediators to the public. Who has checked the quality? Who has monitored the mediators? Who has assessed the mediators? Why have mediators been appointed to the CAM

WHAT DOES TRANSFORMATION MEAN?

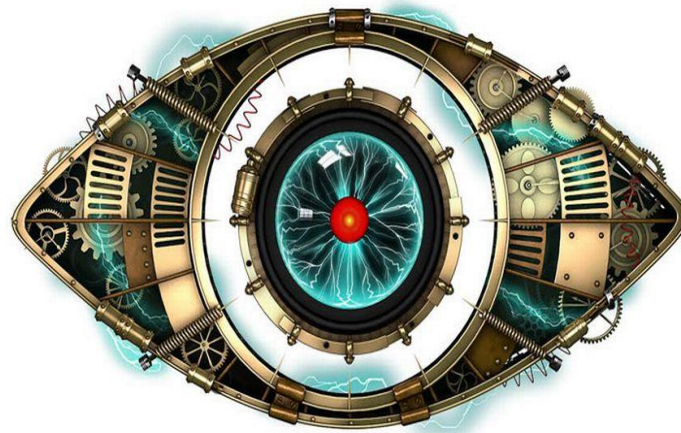
Mediators need a unified governing body to ensure self regulation.

Government needs to open up its advisory body to a multidisciplinary team of experts.

Policy must be driven with guidance from international and local case studies.

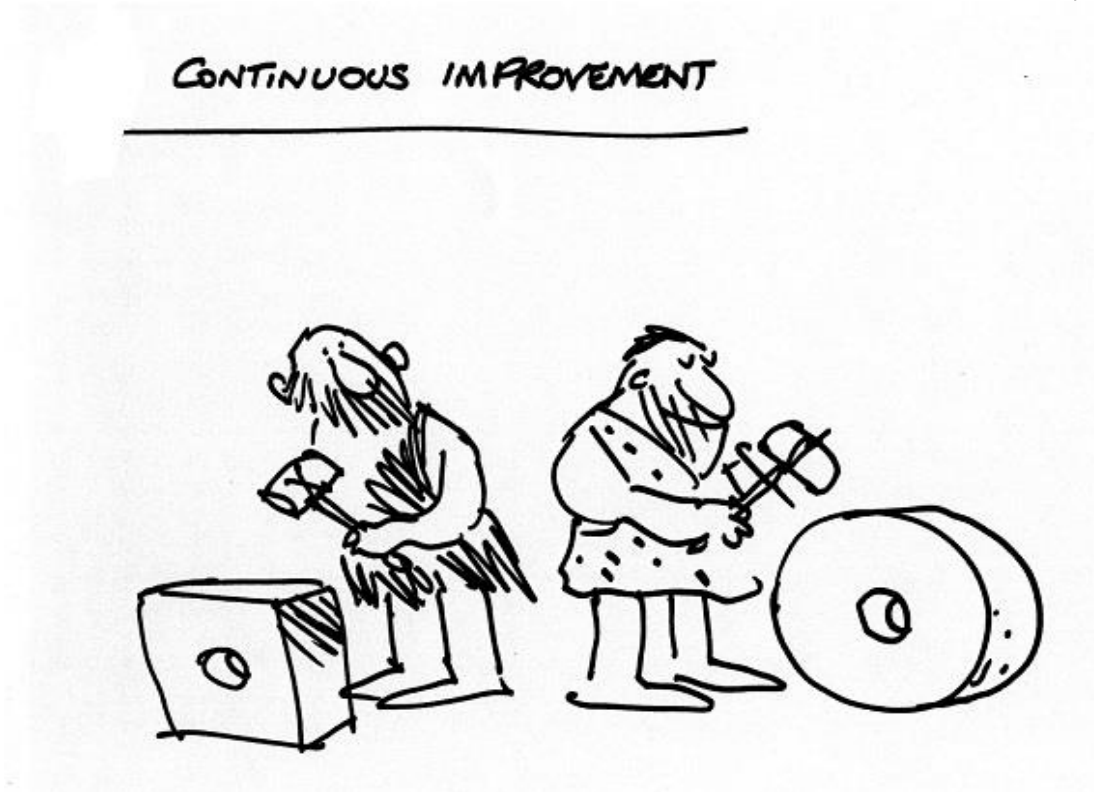
Standards, monitoring enforcement must be good on paper and in practice.

Develop mentoring systems that are compulsory.

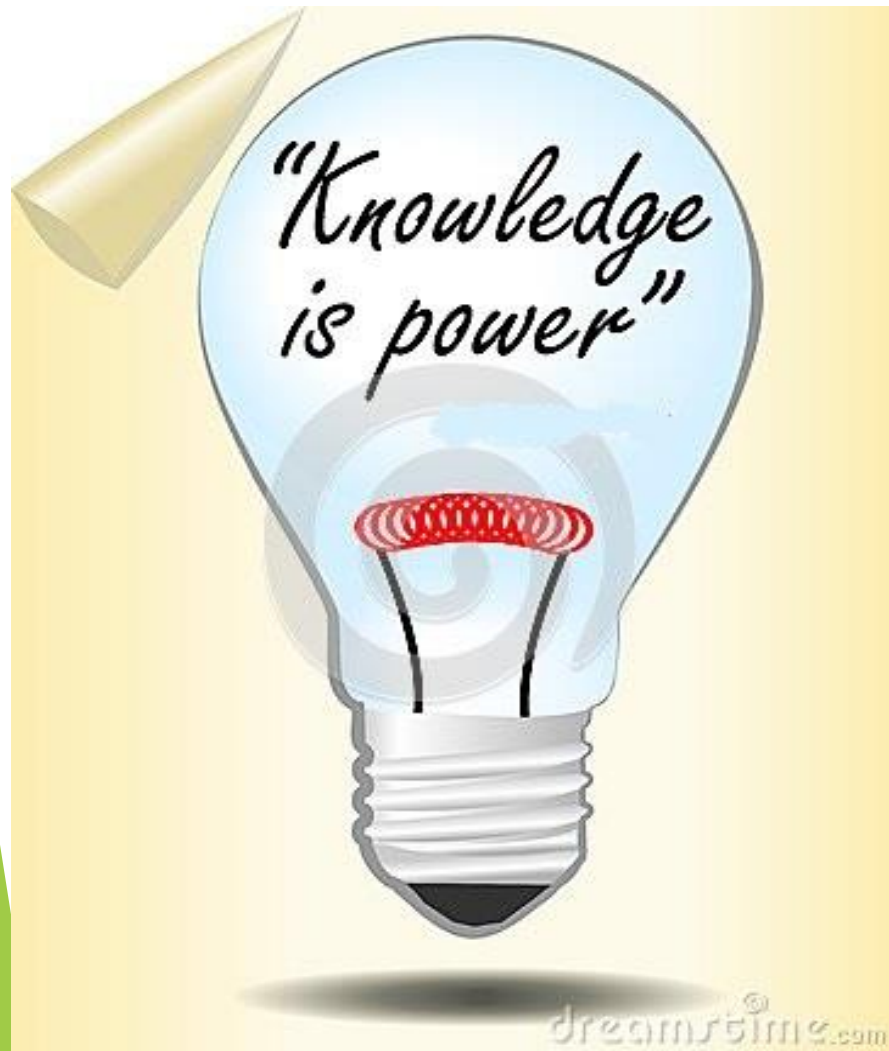


WHAT DOES TRANSFORMATION MEAN?

To transform mediation requires us to better the quality and standards and not reduce what we have. We have to however manage technical debt.



WHAT DOES TRANSFORMATION MEAN?



We need to become more academic and share knowledge in tandem with improving the practice. .

SO DOES THE MOVE TO STANDARDS LIMIT TRANSFORMATION?

Only if it is developed in isolation of a holistic plan to move toward a profession that is based on a sound, well researched and localised policy, a practical plan of action, a commitment to the standards, a unification in the mediation industry and a multi-disciplinary leadership team at a government level.



SO DOES THE MOVE TO STANDARDS LIMIT TRANSFORMATION?

The mediation profession must unify around this plan. If we have people that are outside we must strive to listen to them, adapt where possible and bring them in. If the mediators cannot agree - government perhaps should guide with advice and knowledge.



JUNIOR MEDIATORS MUST PLAY THERE PART

- ▶ Transformation requires newly trained mediators to be active beyond their training.
- ▶ As much as the mediation industry is required to guide the transformation for broader work for mediators, junior mediators need to take responsibility for their future.
- ▶ The development of the Young Mediators Group is a positive step and is supported by Mediate Works, Conflict Dynamics and Tokiso.



If you are interested in joining the Young Mediators Group please email joburg@youngmediators.com with your name and surname in the subject line.

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works

promoting 

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