



de Rechtspraak

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mediation

Machteld Pel
March 2009

The role of lawyers in court encouraged mediation

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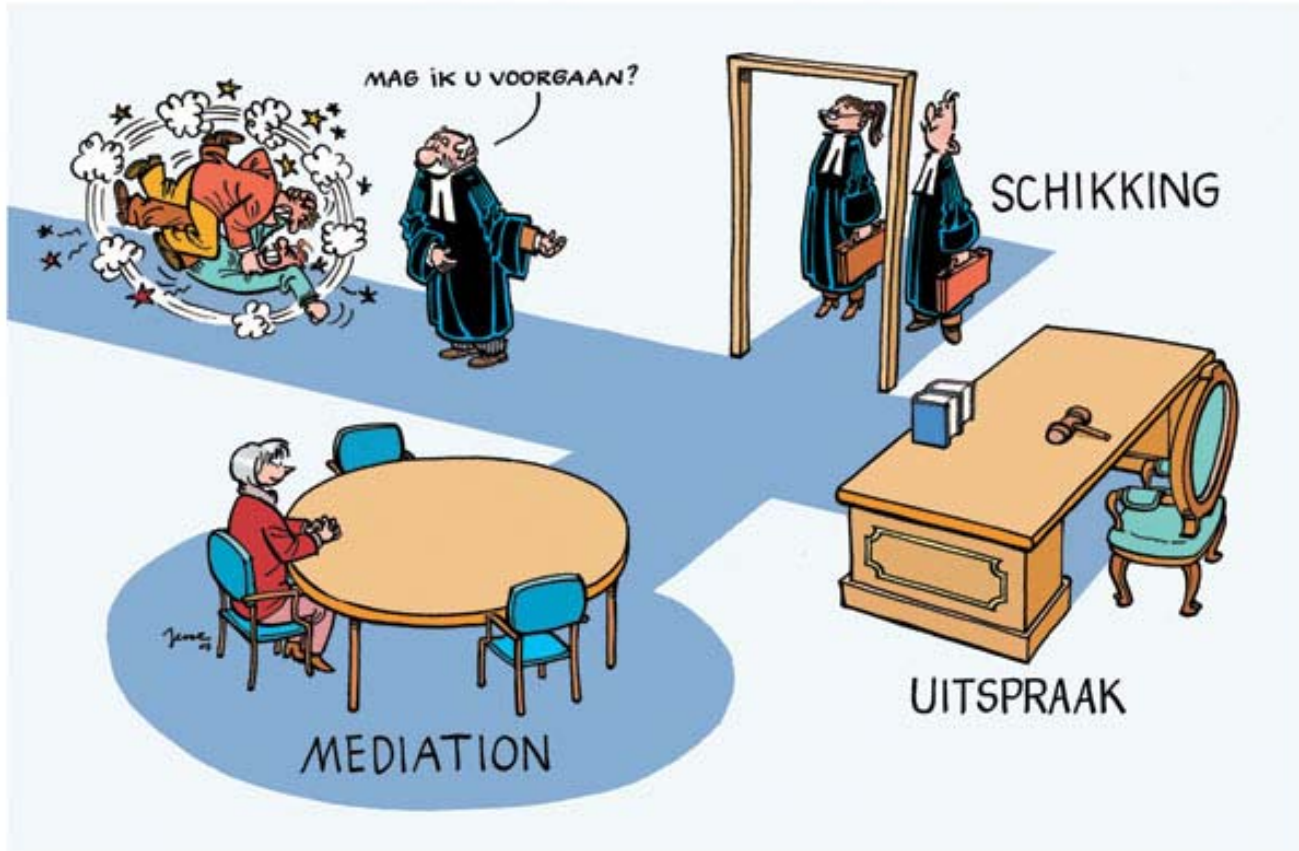
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Court connected mediation

- Why would lawyers the use of mediation?
- What drives judges to encourage mediation?
- What drives policy makers?
- Impact on use of mediation in society?





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Netherlands Court connected mediation

Cultural turning point for judges and lawyers

- Decision - dispute
- Settlement - dispute/conflict
- Mediation - conflict

Effectiveness of profession

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Change of culture

- Client centred
- Intervener centred

- Education
- Training course
- Monitoring
- Development conflict diagnosis
- Policy: disputes – underlying problems



Choice drivers and interests

- Judges: gate keepers
- Lawyers: crucial role
- Parties: interests, rights or power?

Interests:

- Own
- Presumed
- Prescribed



Choice drivers and success indicators

- Control process/outcome
- Rapid and cost effective solution
- Decision no solution
- Relationship
- Compliance and satisfaction



Practical lessons

- organisation
- role of lawyer during mediation
- the art of conflict diagnosis

- Conflict resolving
- Or
- Dispute resolution

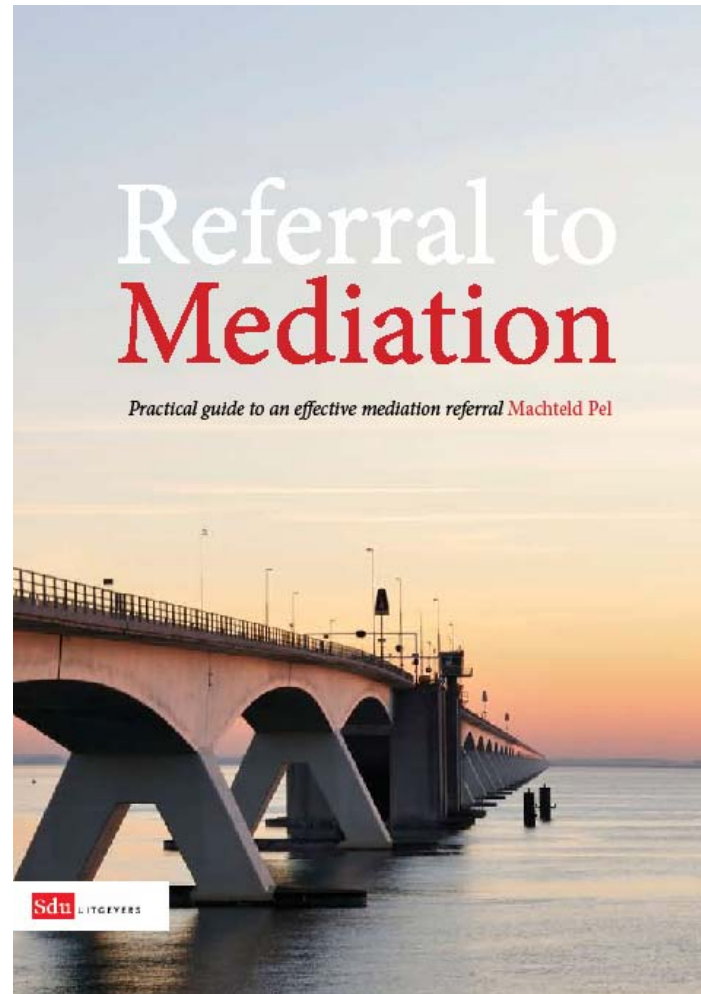
- Rights-Power-interests



Research

- monitoring
- specific research
- pilot projects





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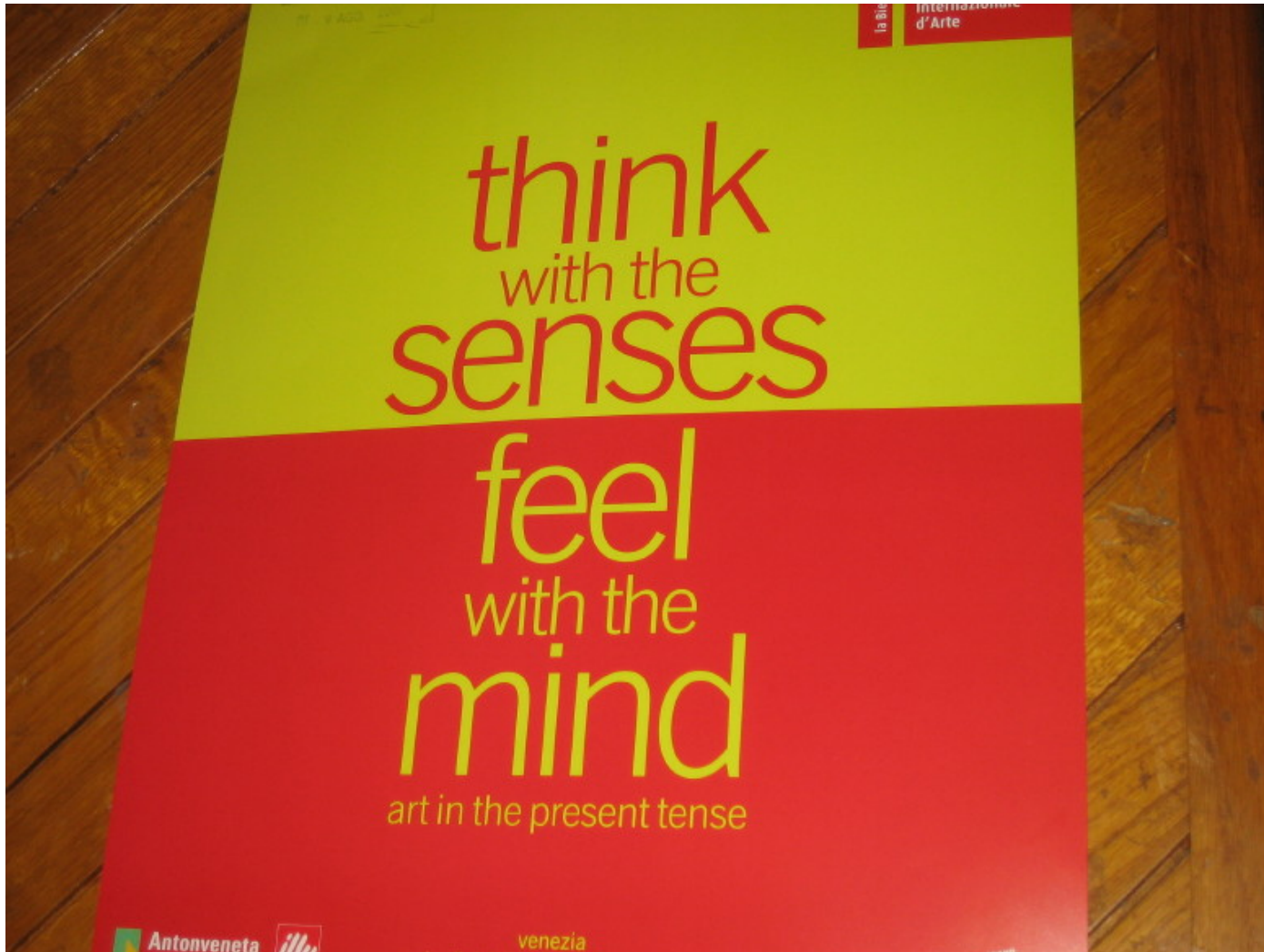
Change and resistance

Professional pride

Conflicts and changes

Conflict culture





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What drives whom

- Lawyers/judges/policy makers/parties
- Money?
- Effective dispute resolution?
- Peace?



Impact on use of mediation in society

- effective dispute resolution
- conflict management systems
- lawyers opt for mediation
- earlier conflict handling
- part of a system





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