

## **Mistakes Were Made (But Not by Me)**

In their book, **Mistakes Were Made (But Not by Me): Why We Justify Foolish Beliefs, Bad Decisions, and Hurtful Acts** (Harcourt, Inc. 2007), psychologists Carol Tavris and Elliot Aronson explore and explain why it is so hard for presidents, bishops, police and prosecutors – and all the rest of us – to admit mistakes.

Most people, when directly confronted by evidence that they are wrong, do not change their point of view or course of action but justify it even more tenaciously. Even irrefutable evidence is rarely enough to pierce the mental armor of self-justification.

This is not a scientific tome but an eminently readable book of 304 pages that explains cognitive dissonance and related concepts (such as the confirmation bias) and illustrates how they permeate every aspect of our society. The examples range from the tragi-comic story of cult members who gave away their earthly belongings in anticipation that they would be transported to another planet by aliens, to the truly tragic stories of innocent people convicted by police and prosecutors who persuaded themselves that the accused were guilty, despite irrefutable evidence of their innocence, or of social workers who convinced themselves that they were eliciting repressed memories of sexual abuse from children, when in fact they were implanting such “memories.”

Lawyers encounter cognitive dissonance in many different ways. I recall one conversation with a client some years ago, who sought advice on negotiating a new collective bargaining agreement with a union. He was extremely frustrated that the union failed to see the economic realities (as he perceived them), when the real stumbling block was that he was unable to see things from the employees’ point of view.

Sometimes as lawyers we have to explain to a client that they made a mistake. The fact that conversations with clients are privileged makes it [relatively] easy for a lawyer to be candid with clients about such things. However, it is much harder for a lawyer to admit to opposing counsel, or to a judge, that his client made a mistake because as lawyers we are expected to aggressively represent our clients’ interests. Our clients want us to win, and we want to win. If we come across evidence that is unfavorable or if our client does something that hurts his case, we seek to explain it or put the best face on it. [Remember the famous Monty Python skit with the dead parrot: “He’s not dead – he’s just sleeping!”]

As judges or arbitrators, we try to distill the “truth” (i.e., discern the facts) from contradictory representations. And as mediators, we try to understand how and why the parties arrived at such different understandings of the facts, so that we can help them bridge their differences. For all these reasons, lawyers, judges, arbitrators and mediators will find it highly rewarding to read this book.

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