Quality standards for the mediator?

What condition are needed for the successful outcome of a mediator? Without parties' commitment is really resolve the conflict and settle the case, no success is possible. So, commitment of the parties is the key for

Still, we must also look at the mediator, who may be essential for helping the parties and their lawyers overcome roadblocks and resolve issues so they can reach their conflict or dispute. So perhaps we must decide on the minimum quality standards for mediators; otherwise, there is a risk of getting stuck with others who are not getting a mediated result that satisfies both parties as much as possible. The first critical quality for mediators is developing the process in a way that helps parties uncover their ideas about possibilities for resolving and settling their dispute. If the mediator can uncover a shift in the parties' thinking, then the next step is to identify, together with parties and lawyers, interests and possible solutions in a way that the responsibility for the outcome lies totally with the parties.

What, then, determines the quality of the mediator? Be it any profession, quality in mediation is determined by skills, efficient, and knowledge. These attributes constitute the competency of a mediator. Apart from that, good competency, parties also seek in the mediator is personal suitability to the specific case. As for good mediator in any experience, a good competency has been essential in mediations, accepted mostly due to "click" between parties, lawyers, and mediator (McGill, H. McCallion (2011) to mediation, on competency and suitability, p 101, www.pmmediation.nl).

In this piece, I want to focus on the role of regulations in ensuring competency, not so training or other methods, by which one might gain competency. In many professions, standards for quality are set by the professional group itself or by regulation of the state as in health-care, psychology, doctors, and accountants. All have their professional standards. Potential clients use, therefore, rely in the lack of standardization of who to be selected and who to choose a specific doctor, lawyer, accountant, etc., as the basis of personalized skills. Of course, not always.

For mediators, such nationally or internationally accepted standards are yet to become the norm. Not many countries have standardized requirements for mediator quality, certificate training institutes that guarantee a mediator quality, or a reliable register of mediators who are well-trained, experienced, and professionally required to render their skills. In the Netherlands, we are lucky to have the Netherlands Mediation Institute, which has set uniform standards for quality since 1994. The NMI has a register that counts 2000 mediators who are complying with the standards of the NMI concerning education, experience, and ongoing update (www.nmi-mediation.nl for details information). The Dutch parliament has announced a plan to regulate the NMI standards in the sense that minimum standards and the institute that can set those standards will be regulated by law. To what extent such standards can be very useful for example, to help show that a mediator mediator needs general requirements, so the parties can then focus on the mediator's suitability for their specific problem.

The power of mediation, however, lies in its ability to elicit made to measure work. Detailed regulations for procedures, method, quality standards, and costs will not contribute to that core feature of mediation. The fact that a mediator mediates, and not consults, is the key. That is why I consider uniform quality standards and an official register of mediators of paramount importance. These steps enhance confidence in mediation. On the other hand, I think so. Particularly because mediation is a new profession, it is important that there be clarity about what mediators should be. That is why I consider uniform quality standards and an official register of mediators of paramount importance. These steps enhance confidence in mediation.

A comparison between arbitration and mediation is instructive. There are no legal regulations for the quality of arbitrators in the Netherlands. Apparently, the parliament, which has in fact, in many countries regulated arbitration procedure, assumes that the parties who choose arbitration can determine whether the arbiter has the skills and knowledge needed. It seems that arbitration assumes the arbiter's skills as an adjudicator and his or her knowledge of the substantive content of the dispute and of arbitration as a method of adjudication. In the case of mediation, the arbiter's skills as an adjudicator and on-going education and on-going training on the substantive content of the dispute is more important. This is why I like mediation, and I recommend it to parties. The power of mediation lies in its ability to deliver work that helps clients find a reliable mediator who meets general requirements, so the parties can then focus on the mediator's suitability for their specific problem.

To what extent is it different when parties are choosing a mediator? There is a big difference. Mediation puts more emphasis on method and process, knowledge of substantive content is less a decisive factor, as it must be in arbitration. Although there is a general body of opinion that argues for selection of mediators with knowledge of content, particularly for evaluative mediation, most mediation requires the personal qualities of the mediator more than arbitration does. It is not the mediator's knowledge of a dispute's substantive content that determines the mediator's success, but rather the mediator's approach and method, and these are a combination of personal, professional, and personal abilities to work with specific parties, etc.

So those features of mediation mean that there should be no quality standards or regulations of mediation; I do not think so. Particularly because mediation is a new profession, it is important that there be clarity about what the qualities of a mediator should be. That is why I consider uniform quality standards and an official register for mediators of paramount importance. These steps enhance confidence in mediation. On the other hand, I consider regulations of the very process, other than via regulation of the professional group itself, too limiting for the basic interpretation of the mediation process. In addition, regulations that are too limiting risk litigation and litigation, which we should not invite. And, in the end, it is the personal match between mediator and parties that determines whether the parties have confidence in the procedure. That is why I consider uniform quality standards and a register of mediators of paramount importance.