

Kluwer Mediation Blog

Reflections On Neutrality

Bill Marsh (Editor) (Bill Marsh Mediator) · Friday, April 4th, 2014

Recently my good friend Canon Andrew White (aka “the Vicar of Baghdad”, as he is the Anglican priest at St George’s Church, Baghdad) convened a meeting of religious certain leaders from Iraq and Israel, bringing together senior Iraqi Muslim and Israeli Jewish figures in Cyprus for several days of talks about peace. It was by all accounts a great success. Aside from the content (and the concluding announcement of the meeting that “Fear is cancelled”!) it set me thinking about mediators and neutrality.

In all sorts of ways, you could say that Andrew is not “neutral” – at least, not in the way that mediators often think of neutrality. In the field of Middle East religion and relations, he is definitely an “insider”. He holds a distinct and public position as a Christian leader, one of the three major faiths in the Middle East, and therefore has (in the eyes of many) some very real “skin in the game”. Those on the wrong end of “Christian” militia forces elsewhere in the region would perhaps have strong views on this. In other ways, he was certainly neutral in that context – a Christian priest brokering a meeting between Jewish and Muslim leaders.

A couple of weeks ago, another good friend of mine (a leading and now retired mediator) was telling me how he had conducted a mediation for a divorcing couple who were family friends. He had done it very differently from the many mediations in his distinguished career as a mediator. He knew one side of the family well, much better than the other. He researched possible properties for one party to buy. He made a recommendation for an outcome, which the couple accepted. He indicated to one party that they were being unreasonable in their demands. Some purists might say that he was not neutral. But not, I am sure, the parties.

Neutrality on the international political stage is even harder to come by. All countries, organisations and people carry baggage, and are perceived to. Even traditionally “neutral” countries (Switzerland, Norway and Finland are often cited) have their agendas and priorities – and quite properly so. And the UN is frequently challenged on its neutrality.

But this does not mean that those countries and entities cannot mediate. After all, I’m not sure that anyone is ever *fully* neutral. We all have preferences, views, allegiances and prejudices. It’s impossible not to. We like some people more than others. We hold certain values and not others. And whatever we think about ourselves, we are all perceived by others in certain (perhaps very different) ways.

So neutrality is a much more nuanced notion than we often give it credit for. It is not binary – neutral or non-neutral. It comes in shades of grey.

Crucially, we need to distinguish between what I will call “Actual Neutrality” and “Accepted Neutrality”.

The former – Actual Neutrality – is about us. Are we in fact neutral on a given subject? Not, do we have no view on the matter in question. That would be almost impossible. But rather, do our own views, preferences and prejudices make it impossible for us to deliver a fair process?

The latter – Accepted Neutrality – is about how we are viewed by the parties to a conflict. Do they perceive us as sufficiently neutral (note – neutrality is not an absolute, but a spectrum) for them to accept our role in delivering a mediation process? And this can yield some surprises. Like most mediators, I always disclose any possible conflict of interest in advance of a mediation, and let the parties make their own choice as to whether or not it constitutes a problem. Once I had to disclose that I had personally previously sued the insurance company which was a party to a mediation, and to my astonishment none of the parties (including that insurer) had any difficulty with that.

So this question of what neutrality is, and what parties want, is by no means simple. We mediators can get rather obsessive about it, anxious as we are (and rightfully so) to prevent abuse and to safeguard both the practice and the reputation of mediation. But out there mediators of all shades of neutrality – and none – are plying their trade daily, brokering conversations and enabling dialogue which might otherwise not take place.

For their parties, the focus tends to be on Accepted Neutrality. Their question is not “Are you neutral?” but “Do we trust you to be able to make a positive difference in our dispute or conflict?” That brings into play a host of different possible contributions from a mediator.

Sometimes a mediator needs to be an “outsider” – someone from a different “place”, be that geographical, cultural, or professional. These people are often more able to ask the “emperor’s new clothes” type of question. They are less prone to assumptions (or rather, less prone to the same assumptions as the parties). We are perhaps more used to equating this type of mediator with “neutrality”.

By contrast, at other times an “insider” is needed. Someone known to the parties, perhaps someone with an existing role in their lives, someone from within the “village”, so to speak – be that their industry, their city, their religion, their nationality, etc. It brings with it a level of comfort. The language (not just linguistic, but cultural) is the same. They know “how things are done” in that part of world, or that profession or industry. And they may know the parties (or some of them) really quite well. For them neutrality is, to mess with a well-known saying, in the eye of the beholder.

So let’s be clear. What mediators undoubtedly need is the *trust* of the parties. Sometimes, we have interpreted trust as neutrality. Often that will be the case. But not always.

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