

Kluwer Mediation Blog

Optimism in Mediation: Part I - The Captain Goes down with the Ship

Martin Svatoš (FORARB/Charles University) · Wednesday, February 20th, 2019

You are usually at a disadvantage for you will take over the boat in midst of the conflict storm without having the chance to prepare the crew and to check on the ship. Yet you are charged to navigate the vessel through all perils of misunderstandings, mistrust, and perceptions. It takes time to make sure your course is correct. You have to watch for small signs revealing directions - be it a familiar shape of the land of interests, the lighthouse of apology or little buoys represented by small concessions. And then, as the gale of dispute turns in a breeze of negotiation, you see you are in safe waters once again. You shall never abandon your optimism. For if a captain is lost, so is the whole ship. You are not the one who should give up. Remember, the captain goes down with the ship.

The Importance of Being Optimist

Last week in Paris, I had the opportunity to participate in the [14th edition of the ICC Mediation Competition](#) that was accompanied by a rich additional programme. Once again, this event proved to be full of challenging negotiation simulation led by students from literally all around the world. Apart from the main programme, one was able to engage in roundtable discussions, challenging workshops and countless little encounter with fellow mediators during coffee and lunch breaks. Those little chats gave an opportunity for a gathering of inspiring thoughts and ideas and the only pity was that one cannot recall all of them. However, I retained one especially remarkable. It was a discussion of the indispensability of optimism in mediation.

Optimism is a mental attitude reflecting a belief or hope that the outcome of some specific endeavour, or outcomes in general, will be positive, favourable, and desirable. As such, it is an inseparable part of our personality and is both determined by genetic predispositions and acquired through conditioning and impact of the social surroundings. While the psychologists do not agree on what influence the state of our optimism, they do agree on the positive aspects this characteristic proves to have to our life.

Countless studies substantiated that being optimistic improves people's health, work

performance, and other factors relevant to social mobility. Optimistic persons also proved to be more successful students and businesspersons.

Optimist and Pessimist

Despite the lack of similar empirical survey, one would bet the optimistic negotiator would be more successful than pessimistic ones. When it comes to dispute resolution, the ante is even upped. I believe you have to be optimistic (not naive!) to be a good and efficient mediator. And there is a couple of reasons for this statement.



An optimist and a pessimist, Vladimir Makovsky, 1893

First of them is a subjective perception of the disputants. There is a wonderful painting by a Russian artist Vladimir Makovsky called Optimist and Pessimist. I usually show that picture to my trainees and ask them, which of those two persons would be more probably picked up as a mediator by a reasonable third party should the pool of mediators be limited only to this couple.

While this is obviously a hard task to do as the respondents are not allowed to question the respective persons' experiences, training, and skills, the vast majority of attendees opts for the optimistic one without any hesitation.

The second (and more important) reason is the faith in the procedure itself. The disputants are coming to the mediation table with distrust to the other party, often stressed and in an emotionally difficult state. Let's suppose, the parties have met prior to mediation and tried to reach an agreement. They failed. This scenario should be (from the optimistic perspective) read as at least two good signs:

- 1) The parties showed a will to reach an amicable settlement although for the time being failed.
- 2) Furthermore, they have found their way to a mediator.

Despite this, the only thing the disputants bear in mind is a purely pessimistic evaluation of their situation. Following are the sentences I am hearing quite often in the early stage of mediations: *"Clearly, the settlement of our case is difficult or even impossible."* or *"We believe mediation is a useful tool, however, we have tried negotiation by ourselves and were not able to reach an agreement...Mediation will not help in this case..."*

Reasonably Optimistic Skipper



Sea wave during storm

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In contrast, mediators must have faith and confidence in the process. In the case they are fully invested into mediation, faith and hope will also transfer to the parties. No need to add, that pessimistic and distrustful mediators will mirror their perception to disputants and make the possibility of settlement even more difficult.

Back in 2009, we were sailing in Balt when a storm accompanied by a gale appeared. The sea turned rough quite quickly and high waves with dense streaks of foam were just terrifying. Our captain, an experienced sea-dog and friend of mine remained calm and optimistic during all the journey. He kept giving us instructions and tasks with good humour. Later that day, after having safely anchored in the marina, we had an interesting conversation:

- *“Frankly, were you not frightened...? You did not even look concerned...”* I asked him.

- *“Well, I was aware of all perils we had to tackle but I was sure of my ship and of the educated and well-prepared crew. Should this be different I would never dare to come offshore. You have to be reasonably optimistic as a skipper.”*

Today, I believe this concept of reasonably optimistic skipper should apply in mediation too. Though it is not always an easy task. You are usually at a disadvantage for you will take over the boat in midst of the conflict storm without having the chance to prepare the crew and to check on the ship. Yet you are charged to navigate the vessel through all perils of misunderstandings, mistrust, and perceptions. It takes time to make sure your course is correct.

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Life Orientation Test



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In the first part of this post, I wanted to share with you some thoughts as to the necessity and nature of optimism in mediation. In the other one, I would like to write about some hints in relation to keeping and even improving optimism in mediation. While waiting for it you might be interested in measuring the optimism of yours. There are numerous ways how to do it, yet the most often used is known as *The Life Orientation Test* invented by Michael F. Scheier and Charles S. Carver. Its reviewed version is based on answering ten simple questions:

1. *In uncertain times, I usually expect the best.*
2. *It's easy for me to relax.*
3. *If something can go wrong for me, it will.*
4. *I'm always optimistic about my future.*
5. *I enjoy my friends a lot.*
6. *It's important for me to keep busy.*
7. *I hardly ever expect things to go my way.*
8. *I don't get upset too easily.*
9. *I rarely count on good things happening to me.*
10. *Overall, I expect more good things to happen to me than bad.*

To all those questions, you are supposed to give an answer on the scale (0 Strongly disagree - 1 Disagree - 2 Neutral - 3 Agree - 4 Strongly agree). While the counting of the points is quite complicated, you might be considering to use the following [LOT-R Answer Sheet](#) to come out with the results. I will be happy to know what are the outcomes, so if you are willing, do not hesitate to share either in comments or via email.

To be continued

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