

Kluwer Mediation Blog

Functions of Mediation

Greg Bond (Bond & Bond Mediation / University of Wildau) · Saturday, October 24th, 2020

Sometimes I wonder what the facilitation and mediation work I do is all about. By which I mean what purpose does it perform for clients. What is it that they are asking for from me, and what is it that they actually get? Do they always really want what they are ostensibly asking for? Do they know at the outset what it is they want from mediation? And during the process, do their needs perhaps shift, as other concerns become apparent? Do clients always have to know what they want and what the function or purpose of their facilitated dialogue is? Perhaps not.

In some fields, we might say that mediation has the function to facilitate settlement of a dispute, frequently a money dispute with a claim that has been or might be brought before a court of law. The function seems simple enough: to assist the parties in finding out if there are viable options for private settlement. This is significant, but I doubt it is the only function of mediation even in this kind of seemingly clear-cut dispute. It is not always about a focus on settlement.

Sometimes I have wondered if the function is no more than being there. Simply by a third party being present, in two senses of the word, the parties or clients have a space in which they reflect upon themselves and their differences differently. Maybe mediation is a mirror for its clients.

At other times I am there for the main reason that without my presence there would be no dialogue at all. I have worked with parties that are not able to talk without the presence of a third party. Yes, here I may structure the conversation, ask questions that are intended to create focus, clarify standpoints and interests, or shift the perspective. The main function, however, still seems to be to enable these clients to speak to each other in the first place.

In other settings I feel like a buffer and also a filter between various protagonists. Their communication with each other is challenging and may be aggressive, and the filtering function of a third party can be like an unburdening. The parties are responsible for and can focus on their messages because the third party facilitator can stand between them. I am thinking here particularly of my work moderating large public meetings, but not only. Maybe I am overstating my role, but I often feel like a conduit, a channel that is there between the parties to ensure that they can face up to each other squarely.

Mediation can also be a safe place for people to show emotions or sentiments that they would not so readily show otherwise. I do not know to what extent I personally am contributing to this, though I must be just by being there, and I am aware that being the third party here carries responsibility with it. If the place of mediation is perceived as safe, or at least safer than other places have been or are seen to be, then the mediator has a part in this.

Finally – though there are many more functions – I sometimes feel that I am a witness. Not in the sense that I will be called to give evidence, of course, but in the sense that the parties in a mediation need someone to know and to acknowledge what moves them, what has happened to them, and how they feel. Someone to witness their discomfort, their sense of injustice, or their otherwise unseen aspirations and concerns. Someone who sees them.

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