

# Kluwer Mediation Blog

## The Challenges of Mediating Family Conflict

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It's been a tough week. In fact, it has been a tough month. And, on reading Geoff Sharp's post from 30th November, I am amused and reassured to see that I am not alone in thinking this! Maybe it's the time of year, maybe it's the weather over here in the soggy Northwest of Ireland, maybe it is just one of those phases but in any event, it has got me thinking about the challenges of mediation, or at least what challenges I encounter in my practice. While the most of these challenges present themselves to me in the context of the emotionally charged environment of family mediation, I have encountered them in other types of mediation as well and I think (and hope!) that some of you will identify with them.

The challenge I have struggled with most regularly and most recently relates to the discrepancy between the parties intellectual understanding of my role as mediator – neutral, impartial, non-judgmental and non-directive and their underlying, and their often unconscious desire or need for me to be the opposite – partisan, on their side, making judgments, and telling them what to do and how to do it. As much as people understand and want neutrality, I also get a sense of them desperately wanting me to say “yes, you're right, he did behave badly” or “no, you're right, she should not have done or said that.” Maybe it is particularly a feature of the adversarial Irish legal system that people tend to be so focused on who did what and who is right or wrong, that is, the, past, rather than resolution in the future. I'm inclined to think however that it has more to do with the intensely personal nature of family conflict in general. To quote Simmel, “The deepest hatred grows out of broken love...To have to recognize that a deep love – and not only a sexual love – was an error, a failure of intuition, so compromises us before ourselves, so splits the security and unity of our self-conception, that we unavoidably make the object of this intolerable feeling pay for it.”

So, how do I deal with this? Well, I suppose if I knew all the answers it wouldn't be as much of a challenge. What I do find helps is allowing plenty of time for the parties to have their stories heard. I find this is best done in a combination of single and joint sessions. It is essential for the parties to feel they can tell you everything they want to tell you without danger of interruption or negative reactions from the other party. It equally essential for them to feel heard by the mediator, so this is where our active, empathetic listening skills come in. It is also where the skillful use of questions can help to re-focus the parties' attentions, without ignoring what they need to say. I find that acknowledging what they have told me about the past, but then asking questions to elicit information on what they want to, and think can happen in the future can sometimes move them out of the “zone” where all they can think about is how hurt they are.

Also important is that the parties are given the opportunity to hear where the other person is coming from and what their feelings about the situation are. This requires skillful process management in order to allow each person to tell the other what they feel and what their needs are, but without insults or accusations. It is in this joint context that the parties most often turn to me for endorsement of their position or of the others' actions with statements such as "see! I told you he is just greedy!". This is where it gets tricky. You cannot agree and position yourself, obviously, but too much passivity or complete failure to react can end in, at best, frustration on the part of both parties, or at worst, a full blown row. It is at this point I usually start digging frantically in my mediators toolbox and pull out things such as re-framing – "so you are concerned that his claim might be excessive?", neutralizing – "maybe we could re-phrase what you are concerned about without labeling each other" or, when all else fails, taking a time out and reminding the parties individually about the rules of mediation. Needless to say this doesn't always work either. A recent outburst of a similar nature in a mediation almost de-railed the entire process and the very substantial agreements that had already been negotiated. The only circumstances under which the parties agreed to return to mediation at all were if they did not have to sit in the same room together again. I am now continuing the process, for the moment successfully, in single session conducted partly in person and partly online. We shall see.

I had actually planned to discuss many more challenges that I encounter, including, to name but a few: dealing with "unreasonableness" in one or both parties, maintaining the parties' trust in my fairness, dealing with the very intense emotions that I work with every day and keeping myself sane and healthy in the midst of such anger, despair, distrust, hostility and broken dreams. I have just realised though that if I do so this blog will go on for ever and I will break all the maximum word count rules. So to finish, maybe what I need to think about is what skills I am able to deploy, at least most of the time, to manage such challenges. These skills include flexibility, the ability to improvise, to manage a process and to know when to let go of the process, to empathise, to listen effectively, to facilitate and to manage the parties' needs, interests and, particularly, emotions and, above all, to have an endless supply of patience.

And maybe all of us also need to remind ourselves every now and again that mediation is not supposed to be easy, neither for us nor the parties, but that it is these challenges that make it so worthwhile, so necessary and such rewarding work to do. On that note, I wish all you fellow mediators and conflict managers and resolvers a happy, peaceful, and restful holiday and I look forward to taking on more challenges in 2012.

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