
Kluwer Mediation Blog

A Code of Ethics for Mediation – a Brazilian experience

Tania Almeida (Mediare) · Sunday, December 25th, 2011

Due to the fact I work as a Mediation professor I am always aware of the question of Ethics. Teaching Mediation implies sharing its ethical principles with the students and helping them to observe such principles in the practice of Mediation.

In Brazil nowadays we rely on three Codes of Ethics devoted to Mediation. The first one, published in 1997, was drawn up by CONIMA – The National Council of Mediation and Arbitration Institutions – an organization that is made up of entities dedicated to the teaching and practice of Mediation. The second one, published in 2010 by the National Council of Justice – CNJ, along with Resolution #125 of November, 2010. This Resolution determined the practice of Mediation as a Public Policy all over the Court Houses in the country, establishing at the same time guidelines for the qualification of mediators. The third one came afterwards, published in August 18th, 2011 by FONAME – The National Forum of Mediation an organization that also encompasses institutions devoted to the teaching and the practice of Mediation in the country.

All the Codes of Ethics mentioned above agree with other ones existing in other countries and cultures. All of them have the autonomy of the will as a fundamental principle. They also require impartiality, independence, credibility, competence and diligence of the mediator. All of them preserve secrecy as an ethical guide concerning the issues brought to Mediation. They also veto mediators' technical reports. Consulting specialists are required to give their technical support whenever it is needed. That way the decision the parts get to can be based on pertinent information. There is a lot of discrimination as to the mediator's original professional field and his/her function as a mediator. All of the Brazilian codes demand that the mediator be qualified theoretically and practically and also that he/she work permanently to improve in both fields.

Evaluative Mediation and the use of representatives in Mediation are not common practices in Brazil – the parts are present at Mediation meetings and the solutions are up to them themselves. In Brazil lawyers are welcome in the process of dialogue as their clients' legal assistants. They rarely attend all the meetings personally; nevertheless they are always available should the parts need their assistance.

As a professor I have shared some ethical guidelines brought by Philosophy which have to do with the ethics of Mediation. Inspired by Aristotle my students and I have talked over the Ethics of Virtues. It implies taking the others into consideration in every day-by-day action guiding all kinds of interaction based on such premise. This kind of attitude enables one to dispense with external laws as behavior guidelines. The proper behavior towards the other would be a consequence of a

permanent inner reflection and not of the need to abide by the law. The trust required by Mediation has to do with Aristotle's Ethics of Virtues.

Kant's categorical imperative has been a source of inspiration for us to reflect upon the mutual benefit solutions proposed by Mediation. Kant claims that doing unto others as you would have others do unto you should be a universal principle.

I see that the practice of Mediation in Brazil is clearly based upon universal ethical principles seen as essential for such practice. The Brazilian culture has embodied such principles and we haven't heard about them ever having been disrespected anywhere. The three Brazilian Ethical Codes represent the effort made by different groups to establish the guidelines for qualified Mediation practice in the country. They are the base of the ever growing credibility Mediation has in our culture.


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The graphic features a dark background with white text and a circular icon. The icon depicts several stylized human figures, with one figure in the center being magnified by a magnifying glass. The background is accented with horizontal lines in blue and green.

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