
Kluwer Mediation Blog

“Humanistic” mediation, another approach to manage and settle disputes?

Christophe Imhoos (Esprit d’entente) · Saturday, January 7th, 2012

I participated to mediation training over a weekend last December, as part of continuing education of a local non-profit association I chair and which is involved in community mediation (*Association genevoise de médiation de voisinage* – AsMéd-GE – www.mediation-de-voisinage.ch).

Such training was conducted by a well-known and prominent figure of the mediation in France, Mrs. Jacqueline Morineau.

Jacqueline Morineau is the author of two books, “*L’esprit de la médiation*” (The spirit of mediation; www.edition-eres.com) and “*Le médiateur de l’âme*” (The mediator of the soul; Nouvelle Cité, 2008).

Originally, Mrs Morineau studied archaeology and specialized in Greek numismatic. In such capacity, she has been researcher at the British Museum. Later, in 1984, she was involved in a project to develop mediation in France at the initiative of the Paris Prosecution Offices. Since, she has elaborated a specific method to train mediators, both in France and abroad. She has conducted more than two thousand mediations in family and criminal matters.

Jacqueline Morineau admittedly acknowledges that she has never herself followed any mediation training due to her incidental involvement in mediation in France where no such education was available at the time.

For Mrs Morineau mediation is not a technique. Far from the “Conflict Resolution” method, mediation must be understood as way to heal the soul, to encounter the human cry. “Humanistic” mediation, as she describes her approach, is the meeting of the cry, together with emotions. Mediation offers the necessary space for such occurrences to take place. If techniques must be considered, these are related to active listening and empathy with humanity. The only approach possible is to open his/her hearth, to develop the language of the heart, to welcome the pain. Facts are not important in this context. Humanistic mediation aims at enabling anyone to find his/her own humanity: to find oneself as a human being at full in order to reach peace and happiness.

In *L’esprit de la médiation* (Editions Erès 2005/1998), Jacqueline Morineau sets the assumption that, originally, men experienced separation that they do not live easily. Men understand that they have to live altogether but very often this happens with violence. Whereas rites of passage used to

exist, people find themselves alone today. Mediation can therefore facilitate the transition of a – conflictual – situation to another – more serene. Acting in a space and time ritualized, the mediator allows not only people to meet but also to meet himself/herself: he/she is the reflection of two persons in conflict and is therefore able to assist in showing the example. Mediation is a new ritual where pain can be expressed through a process which encompasses the following stages:

- voluntary meeting with hope of reaching reparation;
- confronting with painful events;
- overcoming these obstacles;
- transcending pain;
- liberation.

Starting from these propositions, Jacqueline Morineau establishes a link with Greek tragedy that emerged in circumstances similar to those that prevail today with mediation: both of them arise from a changing society. Between the 5th and 6th centuries BCN, the society, initially governed by gods, became dominated by men and reason. Greek tragedy tends to express human pain and grief. So does mediation in a post-modern world that rejects feelings and emotions. Today politics does not address human needs: people move from an established to a negotiated order. This can be expressed through a ritualized practice, inspired from Greek tragedy that comprises the three following phases:

- the **theoria** which is where parties in conflict express their respective grievances; the mediator makes at the end a summary of the parties' points of views;
- the **crisis** which is the confrontation of the pain of each party; the mediator here encourages the parties to express their emotions and feelings through the “mirror” technique; this is the place where, often, violence takes place between the participants who then, in the presence of the mediator, begin to take some distance from their emotions and, through mutual knowledge, adopt new attitudes; for this purpose, the mediator focuses the discussion at the level of the participants' own values;
- the **catharsis** which is the overcoming of the pains heard and expressed in the preceding phase: each participant moves from a personal interest to an unselfish (altruistic) level in order to start building up common agreements.

In order to reach such a result, communication must govern the mediation process: participants must speak and talk to each other. They have to express what has been hidden so far. The mediator uses mainly, as useful and powerful tools, silence and mirror.

The silence gives the necessary space to each participant to interact and to evidence that the mediator is a simple witness of a situation in which is not a concerned party.

The mirror technique consists for the mediator to repeat what has just been expressed, to “mirror” it without any appropriation or characterization. The mediator acts as a catalyst that sends back and forth the problem to the participants in order for them to have it evacuated.

Jacqueline Morineau practices such a model mainly in restorative justice. Regularly, the Paris Prosecution Offices refer cases to her non-profit association, the *Centre de médiation et de formation à la médiation* (CMFM – www.cmfm.fr), with outstanding results.

During that weekend training, after a short introduction and a memorable presentation of each participant through the mirror technique, we had an opportunity to practice the model through role-play. One participant had to submit a conflict he/she had recently – or not – experienced; another participant had to act as the other person in the related conflict but behaving according to his/her own perspective. The purpose of the exercise was obviously to enable people to act as mediators in this context but also for the participants to this simulated mediation to form another view of the situation as if the mediation was real.

The results were quite astonishing and the guidance of Jacqueline Morineau very helpful and inspiring. The opportunity was thus provided to see the real benefits of the “humanistic” approach. This requires indeed some practice for those not acquainted with this method, like the author of these lines. This also opens doors for afterthought, in particular regarding the limits of the said approach which is, in practice, mainly used in restorative justice as already mentioned.

The assimilation of the mediation process to the Greek tragedy is no doubt interesting but when managing disputes one cannot limit them to an ultimate discussion on possible common values in order to build up solid and firm agreements for the future. I am personally neither sure nor convinced that humanistic mediation can be used as such in the settlement of commercial disputes for example.

Indeed, the tools used – silence and mirroring – can prove to be efficient and powerful in certain circumstances. In the future, I will not hesitate to use them more often when the opportunity so arises.

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