
Kluwer Mediation Blog

Transparency is a Necessary Requirement to Find the Way for the Best Agreement

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Theories are simplified models of reality. They have the advantage of shedding light on complex subjects through a simplified and understandable set of ideas. Theories help to describe, explain, foresee and control. Some theories can be easily proven and others not proven at all. However, there is a particular field of study, named “Game Theory”, which offers countless contributions to a large variety of situations, from computer and political sciences to business and biology.

In our specific case (Dispute Resolution), Game Theory offers great insights on the best strategies to resolve a dispute. In special, Game Theory’s most fascinating insight is the idea that cooperation is the most effective way to resolve a dispute.

As soon as I started to study Game Theory, I felt immediately passionate for the way mathematics and humans science converge to the same point. It is amazing to witness how mathematical models can be developed to predict human behaviour in a variety of situations. However, one must understand that these models must be seen as just another helping tool in this large and intrinsic process, not as an end on itself...

In fact, Game Theory offers, through a series of sophisticated mathematical demonstrations, evidence that cooperation yields the best payoff to the parties in conflict. This insight is probably the main reason why the study of Game Theory has been important, and almost mandatory, in the field of dispute resolution.

Game Theory suggests that transparency is a necessary requirement to find the way for the best agreement . Parties must make their interests clear to all stakeholders and, at the same time, understand and calculate the other parties’ interests and moves. Such transparency can only be achieved with perfect and symmetric information.

In other words, all Parties must be aware of all the gains, losses, and movements until the point of the decision.

In mediation, transparency and cooperation depend only on the mediator and the parties. By nature, all mediation starts with imperfect information. Both Parties try to hide unfavorable information and release the favorable .

With the parties’ cooperation, a skillful mediator may steer the process towards a transparent path where the parties understand each other’s interests.

In order to achieve a mutually satisfactory settlement, the mediator must incentivize trust which will ultimately result in the sharing of information that would otherwise be kept as a bargain token.

If the mediator is successful in building trust and guaranteeing the transparency of the process, the parties will eventually conclude that the best outcome possible is to find solutions to the dispute that address and resolve all parties' interests.

Almost always, transparency will lead to Game Theory's conclusion that cooperation between the parties is the most satisfactory way to resolve disputes.


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