
Kluwer Mediation Blog

Sustainable Solutions for our Environment

Andrea Maia (Mediar360 – Dispute Resolution) · Thursday, April 25th, 2013

“If we listen attentively, we shall hear amid the uproar of empires and nations, the faint fluttering of wings, the gentle stirring of life and hope. Some say this hope lies in a nation, others, in a man. I believe, rather, that it is awakened, revived, nourished by millions of solitary individuals whose deeds and words every day negate frontiers and the crudest implications of history.” **Albert Camus**

I believe that the overall damages to the environment impacts not only on each one of us, but also on the systems and well established structures that have a direct and indirect impact on our lives, creating, thus, a “butterfly effect”.

Despite my relatively limited experience in environmental protection cases, I wish I could get a more in-depth involvement in this field.

As a mediator, I have been fortunate enough to interact with Law practitioners from all over the world. Whenever environment experts are “available”, I engage in long environmental discussions with them.

Needless to say, the conclusion is always that environmental problems should be tackled, and that public and private institutions should abandon old approaches in order to address this “critical situation” in a more effective way.

One of such discussions took place last week in Brazil. We all tried to understand why in Brazil, in environmental related cases, the immediate focus is to try to find out the guilty party, in a “*witch hunt*” ritual, in a process that ends when the blame is fully assigned. Assigning the blame is normally a quick and thoroughly discussed process. But it is not enough.

Working on long term solutions that could avoid the same, or similar, problems taking place again, or effectively discussing the indemnity of the victims, are normally neglected or abandoned questions and actions.

Such a mentality is built on past, old-fashioned experiences and is highly damaging to the future of our children and generations to come. You might be asking yourself by now: “What does all of that have to do with this Blog?” My answer is: a lot. If nothing else, It is a lazy approach and it forces us to think on how Mediation, as well as other forms of amicable dispute resolutions, could be more used in environmentally related cases to reach sustainable solutions with better protection to the public interests.

Traditional rules, policies, regulations and procedures are no longer the best way to cope with this problem. We now need a tailor-made, individual approach, where each peculiar and individual circumstance is acknowledged and respected, regardless of the guilty or impacted part.

There may be, in fact, one or more guilty parties, but who is in fact responsible? Who, if anyone, should be blamed? How can we reach a stage where all parties involved realistically understand their responsibilities and constructively build together a better conciliation model? If you are still in doubt about the role of mediation, think twice now.


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