
Kluwer Mediation Blog

Leadership Challenges and Mediation

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I recently had the opportunity to co-facilitate a training workshop with Tom Schaub of CMPartners and re-acquainted myself with a model of challenges that face leaders today. This is a model that was created by Ronald Heifetz and is captured in the book “Leadership Without Easy Answers”.

I don’t pretend to be an expert on this model but thinking about it prompted connections in my mind between it and mediation. I’d like to take this month’s entry to explore these connections.

Put simply, Heifetz identifies 3 types of leadership challenges. The first type of leadership challenge is where the problem is known and the solution is known. A leader essentially needs to apply the correct solution to the correct problem. It might not even be correct to refer to the approach to this type of challenge as “leadership”. It is probably more appropriately referred to as “management”.

The second type of leadership challenge is where the problem is known and the solution is not. In this type of challenge, a leader must construct a solution for the problem at hand. This is often a variation of an existing problem for which existing solutions do not work.

The third type of challenge is where the problem is not known. Needless to say, the solution is therefore also not known. In this type of challenge, the leader must first be sufficiently aware that there is a problem, not matter how ill or non-defined. Once aware, the leader must then define and identify the parameters of the problem before setting out to construct a solution for the newly defined problem. This situation often presents itself with changing circumstances where one must anticipate problems before they occur. These problems are often systemic and may not be perceived by many as a problem in the first place.

In today’s increasingly complex and interdependent world, the problems our leaders, whether political or industry, face tend towards type 2 and type 3 leadership challenges. This is especially so when the circumstances involve the human condition. Unlike physical world problems, type 1 challenges are rare.

What does this have to do with mediation? In a very real sense, a mediator is a leader in many ways. S/he, of course, provides leadership as s/he facilitates the mediation process. The mediator also acts as a role model for how conflict can be faced, managed and dealt with. The mediator also plays a leadership role in that s/he essentially guides how the problem is defined and resolved by the parties. And this is where Heifetz’s model directly translates. When we mediate, we are often faced with scenarios that present to us challenges from all 3 types.

From time to time, we will mediate cases with a type 1 challenge. These are often straightforward disputes; probably single issue, where it quickly becomes clear what the solution should be. And it is the speed at which the solution presents itself that we should be wary. If we as mediators are honest with ourselves, we have essentially plugged the facts (that parties have presented to us) into an existing mental framework (which we have and is essentially unconscious to many), which then presents to us a solution. The mental framework is often based on rights and obligations, whether legal or moral. Arguably, this is what many mediators, who practice evaluative mediation, do.

At one level, there is nothing wrong with this. It presents a fast solution, which is arguably legitimized by the law (whether it is the role of mediators to engage in this function is not a discussion this entry will engage in).

However, it could also be that this is a type 2 challenge where the problem is known and the solution is unknown. It may well be that although the problem is known (and is presently defined in legal terms), that the solution could well be an extra-legal one. It could be a solution that looks to addressing the needs, as opposed to the legal rights, of the parties. In this type of situation, the solution is unknown. Hypothetically, for every pair of disputants with the same problem, different pairs may well accept different solutions to the same problem set. This arises because parties ascribe different priorities to the same interests. This means the mediator plays a vital role in helping the parties construct the appropriate solution to their known problem.

It would be nice if parties came to the mediation table and are able to say “Mr./Ms. Mediator, this is a type 1 (or type 2) dispute”. Alternatively, it would be great if we, as mediators, could listen to parties and identify definitively, whether it was type 1 or type 2.

In my experience, it is never this clear. The reality is that parties present a set of circumstances, which they perceive to be a problem. Like the nature of light in quantum science, it is type 1 or type 2, depending on how we choose to measure it. Which is why the argument about using the evaluative or facilitative model of mediation, to my mind, kind of misses the point. In our obsessive need for certainty, we sometimes take a type 1 view of a type 2 situation. We impose (what we think is a known) solution when we should be constructing a solution to a type 2 problem. My view, of course, is that since we have choice as to whether we should classify any scenario as a type 1 or type 2 problem, as mediators, we should do our level best to help parties construct a type 2 solution when a type 1 solution may not necessarily fully satisfy.

That leaves the type 3 challenge. To be fair, a typical mediator is not likely to be thrust into a situation where the problem is ill or non-defined. The process of gathering information to identify the problem the parties face does not make the problem ill or non-defined. For it to be a type 3 situation, the problem must be new. However, when faced with type 3 challenges, we must constantly be careful not to give in to our tendencies to define the problem as being type 1 or type 2.

An example of a type 3 problem would be if a mediator were brought in to help with the international boundary and island disputes in South East Asia. The mediator could approach this as a matter of rights (type 1) or as a matter of interests (type 2). However, it is possible that there is a problem here that needs to be first defined. China, does not seem to be playing by the rules of international law. Treating It as a type 1 problem presupposes compliance with international law. Treating it as a type 2, presupposes that the parties, including China, are seeking to address concerns and interests. And this may well be so. However, it may be a sign of a larger systemic problem, which until defined, cannot be resolved.

Thinking about Heifetz's model made me think (and continue to think) very hard about my mediation teaching, training and practice. I hope it has provided some food for thought for readers and that in so far as it has been useful, will help their practice of mediation.

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