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# Kluwer Mediation Blog

## The mediator as tourist

Ian Macduff (NZ Centre for ICT Law & School of Law, Auckland University) · Tuesday, May 31st, 2016

I've just returned from a week in Vientiane, the capital of the Lao People's Democratic Republic, and that week away gives me both a [slight] excuse for a late blog entry and a couple of reflections on the outsider/observer role of both mediator and tourist. I should say, too, at this outset, that this is not going to be a travelogue, tempting though that might be: suffice to say, if you have a chance, go there.

Leaving aside the descriptions, photos and narratives that any traveler likes to return with (and hopes, often against experience, that there's a willing audience) there are three questions that came up for me while doing the usual array of tourist things:

First: we'll all be aware of that sense of being in a new place, armed with map or, more likely these days, guides and apps on some smart device, and making the obligatory stops at the recommended sights. With the help of our "informants", we can get what might be a pretty good idea of the history, significance, politics, and meaning of what we observe but, as outsiders, we're bound to end up with two kinds of reservations or at least incomplete versions: one is the simple reality that no account is complete; the other is that any account is likely to be partisan. For example, my 'preparatory' reading for this trip (perhaps a bit like the mediator's reading of any documentation relating to the dispute) was an excellent book by Grant Evans, *A Short History of Laos*. But even that book made clear that there are disputed interpretations not only of the distant and archeological past (including variations of what ethnic and identity theorists refer to as "myths of origin", which become politically important in a contested present, when identities, languages, and groups' place in a polity are uncertain), but also in more recent and modern history, when histories serve to explain and legitimate present arrangements. Even the degree to which history may be a starting point for open conversation rather than an official orthodoxy will vary according to context.

More simply, for the traveller and, I suspect, for the mediator, there's just a question of perception and understanding: what is it that I am looking at and seeing; am I seeing the same thing as my companions and conversational partners? Even the sympathetic, interested and informed observer is likely not to really see what, say, the hand gestures of a statue of the Buddha mean, as those "mudras" capture more than sculptural style. So, the risk is that, as outsiders, we'll miss nuance, meaning, significance, interpretation – and of course we'll miss the things that aren't said but which are probably shared and understood by insiders.

One brief and personal example of what we cannot see, or cannot necessarily share with others,

even when much “closer to home” than being a tourist. We have a painting by New Zealand artist, Rhondda Greig, one of her “moon series” which depicts a large reddish-orange moon over a horizon. My late Father, never typically given to opinions on matters of art, loathed what seemed to us to be an innocuous painting, but couldn’t or wouldn’t say why. It was only a casual observation or question of his, when I was visiting my parents in Auckland, that gave me the clue: he asked “have you still got that painting of the poached egg on your walls?” For the reader of this blog, this isn’t going to help – until you know that he was a prisoner of war of the Japanese, and spent nearly 4 years on the Burma-Thai railway, and that he, in common with other POWS, referred to the Japanese flag as “the poached egg”. For him, as remarkable act of disloyalty, I had a painting of the Japanese flag on the wall. He and I simply did not attach the same meaning to that painting.

So, for both traveler and mediator, being on the outside of others’ experience creates that kind of challenge we enjoy in both roles: trying to get a little more on the inside of the story and at least trying not to get it too wrong – or too partisan in our own interpretation.

Second: what is the impact of my presence here? As Bruce Chatwin asked in the title of book of travel essays, *What am I doing here?* – which is both an internal question about what brings me to this place (or this mediation table) but also a question about impact, with the focus on the outward effect of “doing”. I wondered this, perhaps a little cynically, in noting the presence of a number of young Westerners who, from their conversation (in the number of good cafés) were working rather than passing through on their travels. I can imagine that this is a terrific experience for them but, as wider conversations about the “gap year” phenomenon have asked, is the experience equally valuable for the host nation? Of course, there’s the economic and socio-political discussion about the impact of tourism, the contribution to local economies, the promotion of new enterprises etc, but we tourists and mediators might well both come away from our encounters wondering about the mutual and reciprocal benefits to be gained (other than in the raw scores of settlement rates or contributions to GDP).

One useful example of at least a potentially positive impact – with a parallel for mediation – was in the current restoration project at Wat Sisaket, unique for its cloisters with thousands of Buddha figures. The central temple is currently under restoration, with the financial help and expert supervision of a German aid foundation. The key point here is that not only is the fabric of the temple being restored – as much as is possible – but a number of local artisans are being trained in restoration, which is imperative given the deteriorating state of a number of significant buildings.

The mediation parallel, for me, is in the “capacity building” question as to whether the parties have gone away not only with a resolution but also with something a bit more enduring, which is some insights into how to do this for themselves the next time (which was, I think, one of the founding ideals of ADR).

A third, and more difficult question for the informed tourist and the mediator in at least the more contentious cases: How are deep differences perceived, discussed, avoided, managed? The thread running through many of the histories and analyses of Laos, and through my conversations with a guide during a day trip out of Vientiane, is about ethnicity and identity and about the typically unarticulated but understood disjuncture between what is claimed about a unified “Lao” identity and the durability and socio-political impact of minority and migrant identity. Bear in mind, too, that those identity questions – including the migrant ones – go back centuries: there are, not just for the Lao PDR, some questions that will not, and should not go away. As a keen observer of identity

issues and of cross-cultural communication, this one intrigues and endlessly puzzles me, both in terms of how we recognise and address those issues that are plainly rooted in matters of identity and difference, and those that we suspect might be, but are not presented as such, or are articulated in terms of an orthodoxy of consensus and common ground. There are two parts to this: whether to have that conversation and, if so, how to have it? And of course, this might be, for both tourists and mediators, where angels fear to tread.

There's probably a fourth and final question: how is it possible to be "off duty" and as we used to say in the halcyon days of the 70s, go with the flow . . . .

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