

Kluwer Mediation Blog

Why Train Mediation at Universities? From Communication and Life Skills to Mediation Use and Mediation Advocacy

Greg Bond (Bond & Bond Mediation / University of Wildau) · Thursday, May 24th, 2018

Mediation and ADR classes are becoming more established at universities around the world. Sometimes these are compulsory, sometimes elective, and they are mainly taking place at law schools. They also sometimes have some connection to the mediation competitions that are held (see [Rosemary Howell's latest blog](#)). They are usually very popular among students.

As I myself have introduced such classes at the university where I work and have been involved in them at other places, and am seeing their popularity increase, I never stop asking myself why these classes are a good idea, and why we teach them. My answers to this question have become more nuanced the more experience I get.

The first notion might be that we are training young mediators. In a way, we are of course. But most of the students we train will not practice mediation. What they will do is add mediation skills to their repertoire of communication and life skills. When I ask my own students in end-of-semester colloquia what their “take-away” from the course is, this is invariably their first answer. They have learned to manage their own conflicts better, learned to be guides in difficult conversations, and gained confidence.

When I began training students, this was my greatest goal, and I was happy with the result when students felt they were getting there. I added to their list: at work you will moderate meetings and discussions, both within the organisations you work for and between those organisations and customers, clients, or partners. Your mediation skills are also moderation skills.

Maybe you can guess, as you are reading this, that my students are not only law students. I train mediation skills to mixed groups of law and business or management students. Mediation is not just for the law schools.

Developing your communication repertoire is great, I tell my students, but I want more. I want you to be the people in your law firms, businesses, and organisations who have ADR and mediation expertise and can be the people recommending mediation when it may be appropriate. I want you to be the potential users. If you are in HR, then you can bring your mediation awareness there with you and apply it to internal company procedure; if you are in law, then you can use your mediation skills when finding out what your clients' true interests are, and in suggesting mediation to them if it would meet those interests; if you are in management, then know that you have the authority to choose mediation for external disputes, and use your mediation and listening skills well in your

leadership roles.

I repeat: mediation should be taught beyond law schools. To students of business, to students of engineering – to future decision-makers. If the clients know the process, they will have a better chance not only of selecting it but also of then making it work.

Last weekend I was privileged to be able to join in a mediation training day at [New Vision University](#), Tbilisi, Georgia, provided as part of the university's LL.M. I was impressed by the students' commitment to learning mediation skills and by their abilities. This again confirmed my belief in training mediation skills as a core competence for workplaces of all kinds. Not all of these young lawyers will mediate professionally, but they will know the methods and use them, and they will recommend mediation as process where it is due.

There was a Q and A that left me optimistic, and this in answer to some of the concerns about mediation turning into lawyering advocacy without much party control and input that have been raised in blogs on this site. [In a recent blog](#), [Rick Weiler](#) bemoaned the mature mediation market in his jurisdiction, where one of the problems he sees is “the end of dignity and respect,” and Rosemary Howell echoes these thoughts when she writes of “lawyers bringing aggression and legal argument from litigation to mediation sessions where clients may not even appear.”

In Tbilisi, there was a discussion about the role of emotion in mediation. In the role-play we were debriefing, in joint session one party had expressed their disappointment at the way things had turned out. Neither the mediator nor the other party had followed that lead and explored the feelings. This was not exactly the kind of high aggression or the tears that I often see in my own workplace mediation practice, but it was a moment where how someone felt truly mattered.

In discussion, a question was asked: would it be appropriate for the mediator to explore that emotion in a commercial mediation setting with parties and their counsel present? Or would commercial mediation try to steer away from or even keep a lid on the emotions? The answer will depend very much on the situation at hand and the willingness of both mediator and party to go down the road to the emotional level. At the least, the discussion went, the mediator can make an offer to the party – would you like to explain how you feel, what has disappointed you and why?

The discussion continued, and a student asked: “Ok, fine for the mediator, but as the counsel on the other side of the table, I don't have to respond to the other side's feelings? They don't have to matter much to me, do they?”

“Yes and no,” I answered. “You may well work as a mediation advocate in future. Responding well to the emotions of the other side is an opportunity for you to develop trust and empathy, to work on relationships. You will know how to use the mediation process well at moments like these.” The discussion focused on why acknowledging emotions and concerns is important, while it need not lead to any unwise compromise on substantial issues. We talked about it being crucial for this to be done with the right frame of mind or attitude, not acknowledging emotion for merely or primarily strategic reasons, but rather with an authentic interest in the other side's perspective and story.

This discussion was another answer to the question – why train mediation skills at universities, in law schools and other disciplines? It is because students are discussing and practicing how to make mediation process work well, in Tbilisi and around the world, that I am optimistic.

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