

Kluwer Mediation Blog

Politics and Posturing: Anchoring versus Creative Options

Greg Bond (Bond & Bond Mediation / University of Wildau) · Monday, September 24th, 2018

Mediation can be seen as a tool that facilitates better decision-making, particularly in disputes, but not only. The simple tools are focusing on interests, looking for common ground and mutual understanding, creating options that might satisfy many interests, and then weighing up those options to reach a decision. These tools are very simple in theory, but not so in practice.

In practice parties tend to focus on what is in it for them, staking out positions, narrowing down the options, and focusing on the injustices they perceive have been done to them or on what they are convinced is right. This is why mediation requires a mediator – if it were so simple and easy, then the mediation decision-making model could be used without mediators. I wish it were used more frequently, with or without mediators, in places of work, between businesses, and in politics of all kinds.

Decision-making in politics would benefit so much from the use of a mediation mindset and the mediation process tools I have mentioned above. But politicians want to be seen to be tough and decisive, so they make their positions and “red lines” known to the world. Decision-making with partners and other stakeholders then becomes a tug of war rather than an exercise in mutual gain. Perhaps I am doing the whole process an injustice, and perhaps behind closed doors politicians are better able to work things out together without the positional posturing they engage in in public. Perhaps. In many cases I doubt it. Brexit would be a classic case where a lot of interests-based work is needed, but in this blog I am going to illustrate the claim for mediation as a decision-making tool with a recent case from German politics, and not Brexit.

After there were large and violent anti-immigration demonstrations in the city of Chemnitz recently, following the murder of a man by immigrants, Hans-Georg Maaßen, the President of the Bundesamt für Verfassungsschutz, Germany’s domestic intelligence service, suggested in a newspaper that a video showing people hounding foreigners might be manipulated and that there was no proof that it was genuine. This has led to a political need to remove him from his job, as these comments themselves were deemed unfounded and grist to the mill of the violent and radical far-right movements.

The ruling coalition government reached a consensus that Mr. Maaßen would have to go, but one of the three parties, the Christian Social Union (CSU), needed some persuasion, and Germany’s interior minister, Horst Seehofer, CSU, went public to say he would not sack Mr. Maaßen. The Social Democratic coalition partner was calling for this.

Coalition government requires good, creative decision-making, and here was an opportunity to take

the time to assess the interests of various stakeholders and to do some creative work on options. The public statements already made were, however, anchors that made creative options more difficult. If only the decision-makers had done the work a mediator might have helped them do before asserting positions.

A decision was hastily made to move Mr. Maaßen to the interior ministry in a new post as state secretary. The three coalition parties – the Christian Democratic Union, the Social Democrats, and the CSU – seemed to have found an answer. But then there was protest in the media and from the Social Democratic parliamentary party and party leader, who has no post in government. How could someone whose job has become untenable be moved to a new job with considerably higher pay and better public-servant benefits? It was clear (to me, as a mediator, at least) that the first solution had not been decided upon with all the interests in mind, but hastily.

This is the problem with option creation. Anchors and shows of strength work against the detached creativity and non-evaluative brainstorming that mediators would like option creation to ideally be. And not only in politics – in many mediations I have done, it has been particularly hard for parties to suspend judgement and let the options flow. There seems to be a feeling that if something is named then it becomes real, and that is seen as a threat.

In an emergency meeting yesterday, the three German coalition partners reached a new decision. Mr. Maaßen would be moved to the interior ministry as a special consultant (a new job description that hitherto has not existed there) on the same pay and benefits he currently enjoys. To get to this decision, the partners had to have a Sunday crisis meeting, and they have considerably tarnished their own image as a competent government. What could have been resolved mutually and creatively has been solved with clenched teeth and no one can be really happy. The whole issue has become much bigger than it needed to be, due to poor process in decision-making.

What does this show? That politics needs less posturing and more collaborative decision-making, even across political differences. That the tools of mediation can help here. And so could mediators. If the German coalition partners used trusted neutrals in cases like this one, with some confidentiality thrown in, the chances for better decisions would be much higher, of that I am convinced. But I am also convinced that they will not do that – the short-termism of politics encourages the posturing, alas.

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