

Kluwer Mediation Blog

Mediator Engagement in Politics – and other things we care about

John Sturrock (Core Solutions Group) · Sunday, October 28th, 2018

At a recent excellent conference hosted by Professor Ulla Glaesser at Viadrina University in Frankfurt (Oder), one of the workshop sessions focussed on the extent to which mediators can or should disclose or express their views when engaged in politically-related mediation work – or more generally.

What a fascinating conversation we had. It was no mere academic exercise either. We had a representative from Ukraine who described the really difficult situations in which mediators could find themselves in that country. Are mediators agents of change or providers of a “service”, we asked ourselves?

In his thought-provoking new book, [Politics, Dialogue and the Evolution of Democracy](#) the legendary Ken Cloke reflects on an exchange between two distinguished American authors, Lawrence Susskind and Bernie Mayer. I quote the passages from Ken’s book in full:

“In a recent issue of ACResolution, magazine of the Association for Conflict Resolution, two opposing positions on escalating political conflicts in the U.S. were taken by highly experienced, deeply intelligent leaders in the field of conflict resolution. The first was by Lawrence Susskind, founder of the Consensus Building Institute at MIT and a professor in the Program on Negotiation at Harvard Law School, writing:

Neutrality is central to the value we add as ADR professionals. Our neutrality allows us to earn the trust of all sides in a dispute... My contention is that many ADR professionals are so upset by what is happening in the Age of Trump that they are ready to risk their neutrality. While I understand their motives, I am convinced this would be a disaster for the profession... If you sign a petition, march peacefully, write op-eds, or lobby for your point of view, there is no way anyone who disagrees with the positions you have taken will accept you as a dispute resolution professional they can trust. I promise you that whatever actions we take in our personal lives will be noted.

A second, contrasting view was authored by Bernie Mayer, a professor at Creighton University and writer of several brilliant, profound and far-reaching books on conflict resolution:

We are, sadly, experiencing the rise of open and unconstrained racism, misogyny, anti-Semitism, and homophobic behavior in our public lives, abetted and even provoked by our President and his associates. Are we obligated to remain silent about this in order to maintain our status as credible neutrals? On the contrary, I think one of the great contributions we can make as conflict interveners is to call out unacceptable behavior, which is making it increasingly difficult for us to talk across our differences or to deal with the most important challenges we face as a society. We need to find constructive and effective ways to confront unacceptable behavior both in our capacity as conflict professionals and as citizens of our world. But we must do this in a way that recognizes that people can change, that interactions make a difference, that people who behave in an abusive manner still have genuine concerns that ought to be addressed, and that we ourselves are fallible.

There is something accurate in both of these statements, yet there is also something I find missing. It should not, I think, be necessary to surrender one's political ideas, beliefs, values, ethics and morality in order to mediate or facilitate dialogues between people with opposing views. Being "neutral" in these conversations should not mean surrendering the freedom to think or have an opinion on important political issues. Otherwise, we capitulate to bullying, blackmail and intimidation, and end up, in the incisive critique of anthropologist Laura Nader, "trading justice for harmony."

On the other hand, "calling out unacceptable behavior" and engaging in polarizing confrontations, while useful in pressuring politicians and calling attention to social injustices, can quickly devolve into pointless name-calling, excessive personalization of political differences, distraction from problem solving, cyclical backlash and over-simplification of complex issues.

What is missing in this discussion is the deeper mediative truth that lies beneath both these statements: that it is possible for us to be open and unbiased without being neutral on issues that matter; i.e., to transcend both bias and neutrality, and work to transform conflict generating behaviors without slipping into unnecessarily apathetic or adversarial thinking."

What a lot of food for thought. Speaking personally, I write regularly for newspapers and other media outlets, offering views on political matters, mostly commenting on process and relationships rather than on the substantive issues. However, in this, I am necessarily drawn into commenting on the behaviour and attitudes of politicians and others. I believe it to be my duty to speak out about these matters. Indeed, as I write this, I have an [article](#) in the Scottish edition of today's UK Times, reflecting on my learning in Frankfurt about the impact of Brexit in Europe.

I lead a not for profit organisation called [Collaborative Scotland](#) which, by definition, promotes a certain way of discussing difficult constitutional questions, especially if framed as "What kind of country do we wish to be?". This is, I suppose, a political question. I have promoted a [Universal Declaration of Interdependence](#) which may seem to sit uneasily with those who support independence in my country. And yet I argue strongly that there is no inconsistency. It is about how we do things rather than the substantive outcome. But what if I (secretly or even unconsciously) believe that this approach might help to achieve a particular outcome?

And what if a mediator is asked to facilitate negotiations, the very outcome of which will inevitably offend his or her political (or other) beliefs? Take the case of our colleague who has

been asked to mediate on the question of where and how many wind turbines should be installed in a particular place, but who believes that no more wind turbines should be installed as we need to reduce energy consumption dramatically. Or the mediator with a gay son who believes that Jesus loves everyone unconditionally and that same-sex marriage should be accepted by the church, and who is invited to mediate between a group of church members who feel passionately that the Bible teaches otherwise and a group which takes a more permissive view.

These may be important questions for us in coming years. And even now, many of us will have wrestled with these sorts of issues in our work.

Interestingly, for me, the only (apparent) consequence of my own activities seems to be that I was judged to have my “own agenda” when advising a Committee of the UK Parliament. That agenda was perceived to be the promotion of a new way to encourage dialogue and openness in politics. My appointment was not renewed. I accept the charge against me and the consequences that flow from it. However, I have lost a role where I could with more discretion perhaps have achieved more influence.

A question arose in our conference session which I had not fully considered before: does mediation sit within or outside “the system”? This may beg the question about what we mean by “the system”. What if we mean the litigation system? Or the justice system? Or the western democratic system? At what point can we no longer answer the question with a yes or no? At what point is mediation inescapably part of the system?

Would those promoting an authoritarian, hierarchical, directive culture wish to engage in a process which tolerates, encourages, and even requires open-minded engagement and dialogue, with respect for all points of view? Should mediators engage with such authoritarian thinking at all? What if the very engagement might change people’s approach? What if participation in mediation itself can never be “neutral” in its effects? What if mediation is, for some at least, destabilising? What if the authoritarians discover that mediation can be a Trojan horse for a liberal, consensual approach?

A final thought: Mediation itself may actually be an agent of change whether we like it or not and whether or not we hold ourselves out as merely impartial facilitators of a process. If that is so, should we make it compulsory?

To make sure you do not miss out on regular updates from the Kluwer Mediation Blog, please [subscribe here](#).

2024 Future Ready Lawyer Survey Report

Legal innovation: Seizing the future or falling behind?

Download your free copy →

 Wolters Kluwer



 Future
Ready
LAWYER

This entry was posted on Sunday, October 28th, 2018 at 8:31 am and is filed under [Developing the Field](#), [Europe](#), [Future of mediation](#), [Germany](#), [Growth of the Field \(Challenges, New Sectors, etc.\)](#), [Mediation and Society](#), [Mediation Outcomes](#), [Neutrality](#), [Philosophy](#), [Policy](#), [Public Policy](#), [Reflective Practice](#), [Scotland](#), [The role of the mediator](#), [Ukraine](#), [Uncategorized](#), [Understanding mediation](#). You can follow any responses to this entry through the [Comments \(RSS\) feed](#). You can leave a response, or [trackback](#) from your own site.