

Kluwer Mediation Blog

What's Next in Dispute Resolution? – Learning from Michael Leathes.

Alan Limbury (Strategic Resolution) · Saturday, August 22nd, 2020



Looking back to my lunch on a balcony overlooking the Thames in 2006, I am struck by how far dispute resolution has developed since our host, Michael Leathes, asked: “how, if we could, might we improve the dispute resolution world”?

In my opinion Michael’s contribution to that development has been as significant as that of the late professor emeritus and Associate Dean of Harvard Law School Frank E. A. Sander, whose 1976 paper “Varieties of Dispute Processing” prompted the first steps towards meeting [Roscoe Pound’s 1906 call](#) for much needed change in the way disputes are managed.

Michael was involved in the establishment in 2007 of the [International Mediation Institute](#), described on its website as “the only organisation in the world that transcends local jurisdictions to develop global, professional standards for mediators and advocates involved in collaborative dispute resolution and negotiation”.

Michael had the idea of having IMI gather together at London’s Guildhall in 2014 users of mediation, in-house and external lawyers, mediators, academics and others involved in dispute resolution processes to find out what they expected and what changes they desired, in response to chosen core and open text questions. Their answers, projected onto a screen for all to see, highlighted the different perceptions amongst participants, especially the differences between what lawyers thought their clients wanted and what their clients actually wanted.

At Michael’s instigation, the Guildhall meeting led, in turn, to the 2016-2017 Global Pound Conference, in which a similar process was repeated in 28 venues across 24 countries, resulting in actionable data contained in a series of reports prepared for IMI by Emma-May Litchfield and Danielle Hutchinson of [Resolution Resources](#) . A summary of the overall outcome of the series,

identifying global data trends and regional differences is [here](#).

More recently, Michael conceived and has been the driving force behind the numerous contributions to [Seven Keys to Unlock Mediation's Golden Age](#), a series of 25 peer reviewed articles accompanied by videos with the authors, published online by [Mediate.com](#). The objective of the *Seven Keys* is to encourage discussion among all stakeholders on navigating mediation's best future. Topics include, among numerous others: establishing strong, collaborative leadership; running the Global Pound Conference every 5–7 years; teaching mediation as a core subject aligned to real world needs; ensuring mediation is respected as a true professional practice; encouraging mediation and arbitration integration; taking advantage of ODR's full potential; making mediation a prerequisite to civil litigation; implementing the Singapore Convention on Mediation; expanding the value of mediation into deal-making and, authored by none other than Michael Leathes, "[Forge a User-driven Vision for Mediation: Then Fund It](#)".

As succinctly summarised by Joanna Kalowski in her article [The Seven Keys Conclusion: Many Paths, One Way](#):

"The Seven Keys chart a course towards achieving a new vigour, and constitute a series of recommendations, identifying the need for:

- a new leadership style in the global field, adaptive and 'mediative';
- intentional collaboration among provider organisations internationally;
- education of the next generation of resolvers;
- collection and analysis of field research and experiential data;
- commitment to a unifying set of universal principles such as the Edinburgh Declaration;
- adoption of a Code of Disclosure;
- commitment to an interdisciplinary approach that creates an independent profession;
- continuing education in information communication technology (ICT) and Artificial Intelligence (AI);
- redesign of academic curricula in negotiation and dispute resolution;
- education of 'gatekeepers' – judges, in-house counsel;
- influencing national governments to ratify international instruments that promote mediation;
- more nuanced and targeted marketing and promotion to diverse audiences;
- an emphasis on the language of negotiation over mediation since the former is within users' experience;
- shifting the focus of mediation away from conflict resolution, since the need for a third party does not necessarily arise out of conflict;
- emphasise the value a third party neutral can add to negotiation and deal making;
- encourage courts and tribunals to promote mediation as a first step in the settlement of legal disputes, with access to mediation professionals rather than court staff, so that first time users gain a lasting impression of its value.

As Joanna rightly says: "The Seven Keys confront the field with a stark choice: either to pull up the ladder of success, however qualified it has been, and leave the next generation to rebuild all over again; or commit to leaving a lasting legacy by charting a strategic future now."

We owe it to Roscoe Pound, Frank Sander and Michael Leathes to make that commitment.

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The graphic features a black background with white text and a circular icon. The icon depicts a group of five stylized human figures, with a magnifying glass positioned over the central figure. The background is accented with horizontal lines in blue and green.

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