

Kluwer Mediation Blog

The Pursuit of Happiness

Charlie Woods (Core Solutions Group) · Tuesday, October 8th, 2024

Making the ‘right’ decision can be one of the hardest parts of the mediation process. Once understanding of has been enhanced and options thoroughly explored – how best to choose a way forward? One of the great Enlightenment thinkers may be able to offer some help.

Adam Smith is best known for ‘The Wealth of Nations’ – interpreted relatively narrowly by some as a case for organising society based on the self-interest and market forces. In his [book](#) ‘How Adam Smith can change your life’, Russ Roberts focusses on Smith’s earlier work ‘The Theory of Moral Sentiments’, which explores what constitutes a ‘good life’ and offers a broader perspective on his contribution to our understanding of the human condition.

In this earlier work Smith introduces the idea of the ‘impartial spectator’, with whom we engage to help determine the morality of our actions. It is this spectator *“who, whenever we are about to act so as to affect the happiness of others, calls to us, with a voice capable of astonishing the most presumptuous of our passions”*.

Perhaps this character can play an important role in mediation. As the process moves towards the option testing and decision stage a mediator can try to make sure the ‘impartial spectator’ within each of the parties is awake and focussed on the matter in hand. The mediator themselves can’t directly play this role – while they will try to remain impartial they are certainly no spectator.

The questions posed by the mediator at this stage will be crucial, particularly in helping focus on the potential for mutual gains and testing the likely contributions of each option to meeting different interests uncovered during the understanding stage.

In many respects the ‘impartial spectator’ is a similar device to John Rawls’s ‘veil of ignorance’, when judging the fairness and justice of public policy options. In essence this involves asking what option you would choose if you had no knowledge of your circumstances or what position you had in society.

These type of thought experiments help us to think in the broadest terms about the impact of our actions and choices, both in terms of individual decisions and relationships but also with regard to wider society. It is insufficient to think only of the private cost and benefits of what we might do given our current circumstances and ignore the wider social impact. To Smith the impartial spectator is central in this regard:

“It is he who shows us the propriety of generosity and the deformity of injustice; the propriety of

resigning the greater interests of our own for the yet greater interests of others, and the deformity of doing the smallest injury to another, in order to obtain the greatest benefit to ourselves.”

Not only will this help build a fairer and more just society, but it is also likely to make us feel better about ourselves. As Smith puts it at the start of the Theory of Moral Sentiments:

“How selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it except the pleasure of seeing it.”

Perhaps this is why people at all levels of society tend to feel happier and trust each other more in more equal societies. As Richard Layard put it in an [article](#) earlier this year:

“In the dominant culture today, the overarching goal is individual success, compared with other people (better grades, better jobs, better income). But this is a zero-sum game. For every winner there is a loser. So however hard people try, overall total wellbeing doesn’t change. But we can be happier if our individual aim is to make others happy and we derive much of our own happiness from doing that. We need that positive-sum goal and countries with high levels of social support and trust (such as the Nordic countries) are indeed happier.”

Identifying and building upon mutual gains not only make individual disputes easier to resolve, it would also appear to be vital for the wider pursuit of happiness.

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