

INVALUABLE LESSONS FROM MEDIATION IN FAITH COMMUNITIES

INTRODUCTION

SCRIPTURAL SOURCES OF MEDIATION PRACTICE

Abel and Cain were the earliest demonstrations of the impact of unresolved conflict which is triggered or “justified” by religious belief. Hillel, the Elder advised us “not only to love peace, but to pursue peace”¹. Jesus Christ’s role as the mediator of the new covenant² is also closely associated with assisting people in conflict to acknowledge their sins, seek forgiveness and endeavour to become reconciled^{3 4}. Furthermore, in the 7th century Quranic revelations one is urged to act as a peacemaker^{5 6}, to ensure that equity prevails and oppression of another is quashed. The Quran also advises the use of collaborative mediation⁷ using a facilitative process where each party is represented by their own advocate. Mediation was particularly prevalent in communities of Confucians and Buddhists. Several historical violent conflicts have been “justified” by differences in religious belief notwithstanding that peace and love for others are the cornerstones of all religious faiths. Interestingly, the earliest commercial mediations took place in Phoenician times and the process became popular in ancient Greek and Roman civilizations⁸.

Community mediation provides a mediator with opportunities to practise being non-judgmental. Faith mediation provides opportunities to develop sensitivity to, and patience with, positions that may seem completely irrational to an objective “outsider”. The mediator must have a breadth of experience in mediating cases where each party’s identity is of paramount importance to them. If parties no longer wish to continue a relationship with each other the mediator’s goal is to help them achieve peaceful albeit independent coexistence. The invaluable lessons learnt from mediating these cases are entirely transferable to the skills employed in secular disputes making

¹ Avot 1:12

² Epistle to the Hebrews, Chapter 12

³ Matthew 5:9 Blessed are the peacemakers

⁴ Micah 4:3 see endnotes

⁵ Al Baqarah for probate psalm 2 v182 see endnotes

⁶ Al Hujuraat for bullying psalm 49 v9, 12-13 see endnotes

⁷ Al Nisaa for matrimonial disputes v35 see endnotes

⁸ en.wikipedia.org/wiki/Mediation see endnotes

the process arguably a more deeply transforming and personal experience for the parties involved.

These disputes irrefutably fall within the “tiger territory” of mediation practice is therefore inherently more challenging than relatively monochromatic secular disputes. In secular disputes the variables affecting each party’s perspective or position in the conflict between the parties and ultimately the terms of settlement are predictably their cultural background, personality traits and individual interest in outcome.

ISSUES IN DISPUTE

Disputes within and between faith communities necessarily involve multiple levels of internal dilemmas about the “acceptable” balance of application of religious belief (spiritual) and assertion of secular rights (intellectual) within each individual as well as the external conflict between the parties. The issues in dispute involve the most deep-seated internal conflicts about spiritual versus secular identity, the search and right to justice, attribution of blame, and ultimately drafting a settlement where the overriding objective is that all the terms must be face-saving and faith preserving. Needless to say, they are invariably highly emotional because a party’s religious belief is often associated with an uncompromising sense of identity, belonging, security and immortality.

Resolution of all the issues in dispute rarely takes less than 3 months and usually involves a lot of shuttling between the respective parties. Settlement is intensely pleasing particularly if the mediator’s sense of satisfaction is founded on a religious conviction to make peace between disputants.

The issues in dispute can be one or more of the following:

- Governance: Allegations of abuse of power or lack of transparency about distribution of charitable funds by their leaders
- Property: Ownership and disposal of property. Dissolution of partnership assets is a common feature too.
- Personal: Allegedly “sinful” behaviour triggering expulsion of one of the members of the faith community causing a serious schism within the group

- Workplace: Dysfunctional team dynamics are often exacerbated by differences in attitudes, behaviours and interpretation of scriptural directives about worship. Polarization and isolation within a group can be very intense requiring a swift “rescue” operation to prevent the rift spreading throughout the community.

PREPARATION FOR THE MEDIATION

THE MEDIATOR

Generally, the outcome of a mediation process depends as much on the mediator's skill, experience and training as it does on the parties' courage to be candid with one another and their willingness to forgive their opponents' transgression(s). Any settlement reached generally must have regard to preserving the dignity of the disputants which is often why the parties have chosen to mediate rather than litigate. The mediator will undoubtedly need to be familiar with all the relevant doctrinal sources (which the parties will readily provide) as well as the historical background of the matters in dispute. Mediators often find their role arduous because the parties' most personal vulnerabilities are being dealt with in private and joint sessions. A hybrid of evaluative, facilitative and transformative styles will need to be used. Med-arbitration hybrids are invaluable in assisting the parties to agree to compromise without fearing reprehension or disappointment about the terms of settlement by the group they are representing at the mediation. If settlement cannot be reached or the parties prefer to have a declaratory award to be written rather than an agreement reached through compromise, a pre-agreed and separate individual replaces the mediator and acts as arbitrator.

THE PARTIES' DILEMMA – TO MEDIATE OR JUST PRAY?

Many faith traditions suggest that prayer will overcome challenges. Disputants often engage in prayer making recurrent supplications that the disagreement will be resolved by the other person “realising the error of their ways”. Typically, parties turn away from those who disagree with them to avoid confrontation that may be “frowned upon” by others in their micro-community. This turning away can be triggered by the innate “flight” response to a stressor or can be a conscious choice to maintain the moral high ground. Direct communication between the disputants often ceases completely or becomes strained in an effort to be courteous and the matters in dispute are never discussed. The fear of the complete disintegration of their

community or of another community becoming more attractive to their followers is frequently the motive to seek mediation because it is cheaper and swifter than litigation and confidentiality can be more easily be maintained. The parties often consider the choices of who will be appointed as mediator very carefully. The parties' choices are usually based upon what they need the mediator to provide: empathy with their predicament from a mediator of the same faith and being non-judgmental about the parties if they are ashamed about the details of the dispute.

THE MEDIATION

Encouraging parties to comply with the ground rules such as turn-taking compliance and mutuality in the name of peace can be very difficult. Mediators will use various techniques to open, or improve, dialogue and empathy between disputants, aiming to help the parties reach an agreement. These skills are crucial when dealing with typically delicate matters involving a high level of suspicion, fear and shame. The mediator's role is to facilitate uncomfortable and delicate conversations between people where communication has been suboptimal or entirely absent due to the intensity of their argument. Crucially, the mediator must be adept in maneuvering around the exertion of pressure, expression of aggression and intimidation between the parties to ensure that further harm is not caused. The mediator will gently demonstrate to the parties how they can communicate more constructively and how this allows them to reach a peaceful resolution, the essence of their religious beliefs. Ultimately, the mediator endeavours to instill hope for a more harmonious relationship between the parties in the future whilst highlighting the mutual benefits of achieving settlement of their dispute.

DEALING WITH PARTIES' POSITIONS

The parties' positions may be steadfast and resistant to compromise with demands for apologies, repentance and withdrawal by the "wrongdoer". There may be a need to shuttle between the parties in private sessions for a longer time than in secular cases to help diffuse the intensity of animosity between the parties.

The mediator must be very careful not to engage in reality testing too early because the party may withdraw blaming the mediator for a lack of understanding of the matters in dispute. The focus must be upon appreciative enquiry about how a party has arrived at this position.

IDENTIFYING THE PARTIES' INTERESTS

These may vary between vindication of their position and protecting “the flock” from the grasp of another rival group. The faith community can retain the ownership of the resolution of the dispute which is crucial to their survival as credible entities. Ventilation of different interpretation of scripture or faith traditions can be conducted in a safe arena whilst face-saving measures are adopted within the terms of settlement.

MEETING THE PARTIES NEEDS

Holocaust survivors tended to be those who held strong religious beliefs, suggesting it helped people cope in extreme circumstances⁹. Humanistic psychologists went on to investigate how religious or spiritual identity may have correlations with longer lifespan and better health. The study found that humans may particularly need religious ideas to serve various emotional needs such as the need to feel loved, the need to belong to homogeneous groups, the need for understandable explanations and the need for a guarantee of ultimate justice. Other factors may involve sense of purpose, sense of identity and the sense of contact with the divine¹⁰.

CONCLUSION

In summary, the invaluable lessons that can be learnt through mediating disputes where religious belief is relevant to one or more of the parties include the following:

1. Abiding conflict resolution: the deeply personal dynamics of these disputes means that mediators must be very patient and withstand initial and sometimes even recurrent rejection by the parties. The unflinching and unconditional presence of a willing mediator builds the colossal levels of trust that are the key to being "let in" to help resolve the disputes. Parties often refuse to come to the table because their belief in their position is invariably strong.

⁹ Abraham Maslow's research after World War II

¹⁰ creationwiki.org/Religion

2. The traditional timescales of one "full day" are inappropriate because more time has to be allowed for reflection and prayer by the parties and perhaps the mediator too! Commercial and family mediators comment that they are more often required to work longer and harder on more intricate cases as increasingly larger numbers of parties are "resorting" to mediation because they find that the delay in a court determination and the significant costs of litigation are impractical in today's world.

3. Re-evaluating the meaning of the term "successful" mediation. Success is not defined by a settlement being reached. A cease-fire may be all that can be achieved in the short term with an effort to improve the faith community's resilience to withstand conflict.

ENDNOTES

[4] They will beat their swords into plough shares, and their spears into pruning hooks. Nation will not take up sword against nation nor will they train for war anymore.

[5] Holy Quran 2:182 But he who fears from a testator some unjust act or wrong-doing, and thereupon he makes peace between the parties concerned, there shall be no sin on him. Certainly, Allah is Oft-Forgiving and Most Merciful.

[6] Holy Quran - Psalm 49 (Surah Hujuraat) v 9,12-13

9. And if two parties or groups among the believers quarrel, make peace between them both but if one tries to oppress the other then fight you all against the oppressor until they yield to God's command of equity and then make reconciliation between them justly and be equitable. Verily Allah loves those who are equitable.

12. Oh you who believe let not a group scoff at another group, it may be that the latter are better than the former; nor let some women scoff at other women - it may be that the latter are better than the former nor defame one another.

13. O mankind we have created you from a male and a female and made you into nations and tribes so that you may know one another and not despise each other. Verily the most honourable of you is ever-conscious of Allah. Verily, Allah is all knowing, all forgiving.

[7] Holy Quran - Psalm 4 (Surah Al Nisaa) v35 If you believers fear that a couple may break up appoint one arbiter from his family and one from hers. Then if the couple want to put things right, God will bring about reconciliation between them. He is all knowing all aware