

The impact of religious belief on parties in conflict

Dr Zaza Elsheikh, founder of CMDS and Converge, shares how 2 referrals for mediation in 2010 inspired her to co-found BIMA.

Case 1: Commercial dispute referred to CMDS

A Tenant alleged that his Landlord had breached the covenant to repair. The Landlord had filed a counterclaim for rental arrears that the Tenant had withheld with the intention of paying for the repairs himself.

The Landlord telephoned Dr Elsheikh on the eve of the mediation explaining that the purpose of his telephone call was to warn her that the Tenant was Muslim and said:

”Muslim people can be really slippery!”

Dr Elsheikh took this comment in her stride notwithstanding that she was overtly Muslim because she had frequently encountered such mistrust of different cultures and/or religious belief crystallising as prejudice and discrimination. However, she was rather concerned that the Landlord’s prejudice towards her and the Tenant could become a significant obstacle to reaching settlement. Dr Elsheikh discussed her anxieties with her colleagues at CMDS who unanimously urged her to proceed with the mediation herself rather than letting one of her non-muslim colleagues take her place at such short notice.

The Landlord was visibly shocked upon meeting Dr Elsheikh. He swiftly suggested her replacement by a different mediator because the case required someone with a legal rather than a medical background. Fortunately, Dr Elsheikh was able to promptly reassure him that she held dual qualifications and had practiced as a solicitor!

The mediation proceeded and terms for settlement were agreed. Whilst signing the Settlement Agreement the Landlord remarked rather resentfully that he could have saved himself the time and money spent on mediating that day but for the Tenant’s insulting behavior towards him. The Landlord explained that he had gotten on reasonably well with the tenant prior to his visit to the property to assess the extent of repairs needed. However, upon his arrival at the property the tenant had insulted him by insisting that he take off his shoes before entering the property. The Landlord was still visibly aggrieved and said:

“This tenant had assumed the right to dictate the terms of my entry into my own property when it was him who had asked me to visit! Was he saying that I wasn’t clean enough? I was so angry that I just wanted to get him out of my property”

Being muslim Dr Elsheikh refrained from explaining that although his tenant’s request was founded in his culture rather than religious faith, it was also an increasingly common request within secular homes in the interests of minimizing the burden of cleaning floors/carpets for fear that he would perceive this as a bias toward the tenant.

Dr Elsheikh wondered whether she would have acted differently if this had been a Community rather than a Commercial mediation. She decided that a Commercial Mediation service offering support for transformative thinking was needed; BIMA was conceived.

Case 2: Family dispute referred to Converge by an ex-husband

Mr A wanted to resolve an issue relating to contact with his children. Upon further enquiry, it transpired that he had been visiting his children in the former matrimonial home twice a week for 6 hours in total since his separation from their mother 6 years ago. It became clear that he was seeking an improvement in the quality of his visits rather than duration or frequency. He explained that he was not allowed to go into the kitchen, garden or children's bedrooms during his visits and he did not understand why. Having become tearful, he admitted that his greatest regret about the break-up of his marriage was that he was no longer welcome in The Baptist Church which he had belonged to for many years because he was a "sinner" in the eyes of God due to his adulterous relationship which triggered admitted separation and ultimately divorce 5 years ago. He explained that repentance was impossible because he was now married to the lady and had a child with her too.

Although Dr Elsheikh was very touched by his candour, she did not feel it was appropriate to try to resolve his perceptions about God's views - not least because God could not be asked if Mr A's understanding was correct! When Dr Elsheikh asked his ex-wife Mrs A what her thoughts were about improving the quality of Mr A's visits. She confirmed that she did not allow Mr A to use anywhere other than the lounge to spend time with their children because he had broken his covenant with God. Being a God-fearing woman, she had simply granted Mr A a license to visit his children rather than an invitation into their home.

Dr Elsheikh wished that she could have provided them with scripturally based reality testing but felt that this would be outside her remit particularly as she was not Christian. How wonderful it would have been if a Christian co-mediator had been involved too! Co-mediation would become the cornerstone of dispute resolution in BIMA.