

Editorial

The Special Nature of Corporate Mediation

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What distinguishes corporate mediation from other forms of mediation? In the Editorial of the previous issue of *Corporate Mediation Journal* (CMJ 2020/1) editor Anna Doyle said that corporate mediation is mediation within and between organisations and added that it doesn't stop there. That in itself is a good thing and the result of the fact that mediation can occur in many shapes and sizes, whereby the basic principles and core values remain the same. The seasoned mediator will have a backpack full of knowledge, experience and options for interventions from which he or she – sometimes not even consciously knowing why – selects the right ingredient to unlock a blockade in the communication between the parties. The aim of the CMJ is to show the added value of mediation as a management tool, recognising and expressing the special nature of corporate mediation. The contributions in CMJ will investigate and report how mediation may impact corporate culture and the relationships within and between organisations. The CMJ offers experienced professionals and scholars a platform to share their best practices as to how to transform tradition, shape ideologies, paradigms and practices and to proffer ways to do the same differently and to create a safer work environment and a more efficient organisation. It seeks to make important insights available for CEO's, CFO's, COO's, HR Professionals, Legal Counsels and every one at their own level within an organisation to experience their influence in a broader context and to help and support themselves and each other. Consultants, attorneys and other advisors will also find much of value in the CMJ. Mediation in the fullest sense of the word translated to day-to-day operations helping to take the war out of words and out of internal and external relationships between organisations. Mediation can help to find a third way out of conflicts with sometimes at first sight only two (legal or monetary) solutions.

The most important characteristic of corporate mediation is that there is added value when the mediator has an understanding of the business world the parties live in. Parties may benefit from mediators with subject matter expertise. Honeyman (1993)¹ who led the *Test Design Project* – a project team in the United States trying to formulate quality standards for mediators – and drafted *Interim Guidelines for Selecting Mediators*, observed with regard to subject matter expertise: “We concluded that a [...] mediator needs enough knowledge of the type of parties and the type of dispute to be able to facilitate communication; develop options; empathize; and alert parties (particularly pro se parties) to the existence of legal information relevant to their decision to settle.”

Riskin (1996)² defines subject matter expertise as “... substantial understanding of the legal or administrative procedures, customary practices, or technology associated with the dispute.” These observations are supported by the outcome of most surveys amongst users of mediation (e.g. the outcome of the Global Pound Conferences organised by the International Mediation Institute in 2016–2017). In next issues of CMJ the topic of subject matter expertise as well as the do's and don'ts of the use in mediation – as e.g. in evaluative mediation – will receive more attention given the relevance of subject matter expertise in the field of corporate mediation.

In this issue Mark Kawakami observes that for those in the mediation business, it is important to continue improving and diversifying the pool of mediators who are able to competently handle complex mediations. He points out that one sure way of increasing the utility and popularity of mediation is by expanding the talent pool of mediators through interdisciplinary training and fos-

1. C. Honeyman (1993), A Consensus on Mediator's Qualifications, *Negotiation Journal* October 1993, p. 306.
2. L.L. Riskin (1996), Understanding Mediator's Orientations, Strategies and Techniques: A Grid for the Perplexed, *Harvard negotiation Law Review*, 1(7), pp. 35-36 and 90-91.

tering a culture that protects diversity. Mediation has the potential to disrupt the conceptualisation of ‘alternative’ dispute resolution, but as Kawakami warns, in order for that to happen it is important to curb implicit biases and ignorance and learn to see conflicts – and how to defuse these – more holistically.

The uncertain path to shared prosperity – especially if this current global pandemic is to be overcome with collective humanity intact – urges rethinking and adjusting the status quo. Thus, a more feasible and pragmatic approach that invites parties to voluntarily relinquish their illusion of control and to come to the table with a more open-minded and collaborative mindset, could be a more apt form of dispute resolution in the emerging status quo. This is only one of the recommendations Kawakami offers in addition to much more in his very insightful contribution to this issue.

Also in this issue, Sheila Gooderham takes a closer look at the psychological aspects that may play a part in entrenched conflicts within organisations. She points to the importance of the contribution to the process of mediation on the part of the mediator. Mediators are the guardians of the mediation process and its values of fairness, responsibility, integrity and respect.

A translation of psychological aspects involved in disputes between individuals to the collective of individuals who make up the population of an organisation and so embody the organisation itself and its ‘intrapersonal’ workings in terms of fairness, responsibility, integrity and respect, is the main topic of the contributions by Hilde Kroon and Marcel Baatsen in this issue.

They explain that corporate culture is shaped fundamentally by sometimes subconscious drivers and norms and values of people. This resonates with their level of consciousness and awareness and ability to transform their inner conflicts. It is important to the entire organisation to design a safe environment in which people can transform their fear-based ego perspective and raise their awareness of overview and insight.

To achieve this, managers – and they point out that almost everyone is a manager at their own level in every tier of an organisation – would first have to let go of their blockages and raise their awareness in order to be able to help and guide others to do the same.

Mediation has much to offer to organisations and those who are part of organisations. Mediation may contribute to a culture whereby the mutual validity of the self-respect of each other will be the norm and everyone feels safe enough to recognize and appreciate one’s own contribution to the occurrence and persistence of a conflict. If that will be the guiding principle, differences may become the subject of joint problem solving rather than a competition of who said what and who was right or wrong.

Each and every contribution in this issue of CMJ offers food for thought and provides shoulders to stand on in following issues.