

Book Review

Stories Mediators Tell: World Edition, Lela Love & Glen Parker, eds. (ABA 2017)

Paula Marie Young

Clinical Professor of Law, College of Law, Qatar University

pyoung@qu.edu.qa

Abstract

The book captures the experiences of twenty-five mediators who work in different parts of the world, including Europe, Asia, Russia, South Africa, Australia, Egypt and South America. Each mediator focuses on one mediation. The mediations cover a wide range of disputes. They include patent or trademark infringement, the breach of a marketing agreement, an employment termination, a land rights dispute involving Australian aboriginals, a clash between Chinese slum residents and a real estate developer, the death of a man in a Hong Kong hotel, a nuisance case involving noise from an adjacent music hall, a contentious divorce and medical malpractice. Several stories explore family disputes over money, property, outdated family roles, appreciation and acknowledgment, intergenerational cultural expectations, religion, or the care of an elder family member. Several stories explore more complicated multi-party disputes, involving a German group home for troubled teens, an Indian temple community, a Roma-Slovakian community and the stakeholders in a Marine Protected Area off the coast of Portugal.

Keywords: Dispute resolution; Conflict resolution; Group facilitation; Mediation; Mediation ethics

Cite this article as: Young P. M., "Stories Mediators Tell: World Edition, Lela Love & Glen Parker, eds. (ABA 2017)", *International Review of Law*, Volume 2018, Blockade Special Issue 4

<https://doi.org/10.29117/irl.2018.0038>

© 2019 Young, licensee QU Press. This is an open access article distributed under the terms of the Creative Commons Attribution license CC BY 4.0, which permits unrestricted use, distribution and reproduction in any medium, provided the original work is properly cited.

OPEN ACCESS

Submitted: 5 February 2018

Accepted: 1 July 2018

مراجعة كتاب

«القصص التي يرويها الوسطاء: الطبعة العالمية»، ليلى لوف وغلين باركر

يولا ماري يونغ

أستاذ القانون الإكلينيكي، كلية القانون، جامعة قطر
pyoung@qu.edu.qa

ملخص

يستعرض الكتاب تجارب خمسة وعشرين وسيطاً يعملون في مختلف أنحاء العالم، بما في ذلك أوروبا وآسيا وروسيا وجنوب إفريقيا وأستراليا ومصر وأمريكا الجنوبية، حيث يركز كل وسيط على وساطة واحدة تغطي مجموعة واسعة من النزاعات. وتشمل هذه الأخيرة انتهاك براءات الاختراع أو العلامات التجارية، وخرق الاتفاقيات التسويقية، وإنهاء التوظيف، وتلك المتعلقة بحقوق ملكية الأراضي التي تخص سكان أستراليا الأصليين، والصراعات بين سكان الأحياء الفقيرة ومطوري العقارات في الصين، ومقتل رجل في أحد فنادق هونغ كونغ، وحالة الإزعاج التي تسببها ضوضاء قاعة موسيقى مجاورة، وحالة طلاق مثيرة للجدل، والممارسات الطبية الخاطئة. وتعرض العديد من القصص النزاعات العائلية حول المال، أو الممتلكات، أو الأدوار الأسرية التقليدية، أو التقدير والإقرار، أو التوقعات الثقافية بين الأجيال، أو الدين، أو رعاية أحد المسنين في العائلة. ونجد العديد من القصص التي تستعرض نزاعات متعددة الأطراف أكثر تعقيداً، تتضمن مقرات ألمانية لرعاية المراهقين المضطربين، وجمالية لمعبد هندي، وجماعات من روما سلوفاكيا، وأصحاب المصلحة في محميات بحرية تقع قبالة ساحل البرتغال.

الكلمات المفتاحية: تسوية النزاعات، حل النزاعات، تيسير أعمال المجموعات، الوساطة، أخلاقيات الوساطة

Cite this article as: Young P. M., "Stories Mediators Tell: World Edition, Lela Love & Glen Parker, eds. (ABA 2017)", *International Review of Law*, Volume 2018, Blockade Special Issue 4

<https://doi.org/10.29117/irl.2018.0038>

© 2019 Young, licensee QU Press. This is an open access article distributed under the terms of the Creative Commons Attribution license CC BY 4.0, which permits unrestricted use, distribution and reproduction in any medium, provided the original work is properly cited.

As I write this book review, the blockade of Qatar by four neighboring countries enters its ninth month. Despite the ongoing calls of the Qatari foreign minister for “dialogue”, the other parties steadfastly refuse to talk until Qatar implements all thirteen demands issued by the blockading countries in June 2017. Qatar has rejected the demands as an imposition on its sovereignty and as a violation of human rights, including freedom of the press. In January 2017, Prime Minister and Minister of Foreign Affairs of the State of Qatar HE Sheikh Mohammed bin Abdulrahman Al Thani added a condition to possible dialogue. Qatar would not engage in dialogue until the siege countries paid reparations for the damages caused by the “illegal” blockade.

A mediation effort headed by Prime Minister and Minister of Foreign Affairs of the State of Kuwait Sheikh Sabah Al Khalid Al Hamad Al Sabah stalled out early. Qatar - taking a surprisingly quick response, implementing its strategic plan and using its massive wealth has broken through the blockade. The parties, therefore, find themselves at a stalemate locked in their positions.

The blockading countries reinforced the land, sea and air blockade with cyberattacks, a Twitter bot war and a campaign of misinformation that accused Qatar of supporting and funding terrorism. In January 2017, the United Arab Emirates (UAE) tested Qatar with two acts I would characterize as escalatory - holding a member of the ruling Al Thani family against his apparent will and violating the Qatari airspace with a military jet without notice or permission. A recent report of the Technical Mission to Qatar on behalf of the United Nations High Commissioner on Human Rights recorded concerns of Qatari citizens and residents. One finding stated, “Most [interviewees] emphasized the unprecedented divide and distrust this situation has generated, not least given the tight family bonds across the Gulf region. They also expressed concern about the uncertain and far-reaching consequences, with fears that this crisis may become protracted and/or deteriorate.”¹

Against this backdrop, I began reading *Stories Mediators Tell: World Edition*. The book captures the experiences of twenty-five mediators who work in different parts of the world, including Europe, Asia, Russia, South Africa, Australia, Egypt and South America.

Each mediator focuses on one mediation. The editors apparently gave each mediator a proposed outline for each story. Accordingly, most of the stories have a similar structure. They start with background information about the dispute. Next, the mediators discuss how they became involved in the dispute and any steps they took to prepare for, or plan, the mediation. Next, we learn something about the parties as the mediator first greets them. We learn about their age, appearance, demeanor and emotional presentation. The mediators then briefly describe their opening orientations and their goals for this part of the mediation.

We next learn about how the traditional steps in the mediation process unfolded. At this point in the stories, we learn about the strategic choices the mediators made: whether to start with a joint session or caucus, about who should speak first in the joint session, with whom to caucus first and controlling the role of the accompanying spouses, friends, or lawyers. Soon, we learn about the obstacles faced by the parties and the mediators. Some stories end with a resolution of the conflict, some do not. Finally, each mediator reflects on the process and describes the lessons learned or insights gained.

The mediations cover a wide range of disputes. They include patent or trademark infringement, the breach of a marketing agreement, an employment termination, a land rights dispute involving

1. OHCHR Technical Mission to the State of Qatar, Report on the Impact of the Gulf Crisis on Human Rights, at 14, ¶ 59 (December 2017), available at <http://nhrc-qa.org/en/themencode-pdf-viewer/?file=http://nhrc-qa.org/wp-content/uploads/2018/01/OHCHR-TM-REPORT-ENGLISH-1.pdf>.

Australian aboriginals, a clash between Chinese slum residents and a real estate developer, the death of a man in a Hong Kong hotel, a nuisance case involving noise from an adjacent music hall, a contentious divorce and medical malpractice. Several stories explore family disputes over money, property, outdated family roles, appreciation and acknowledgment, inter-generational cultural expectations, religion, or the care of an elder family member. Several stories explore more complicated multi-party disputes, involving a German group home for troubled teens, an Indian temple community, a Roma-Slovakian community and the stakeholders in a Marine Protected Area off the coast of Portugal.

The editors have grouped the stories into themes that highlight uncovering core stories; crossing divides based on local languages, legal rules and cultural norms; the debate over process or substantive expertise of the mediator; desirable outcomes that do not involve an agreement; depths of intervention; the inclination of mediators to step into the middle even when not specifically asked by the disputing parties; what happens to the process when new parties join the mediation or existing parties depart; and the use of unconventional tools to help parties understand negotiating concepts or potential options.

Throughout the book, the mediators describe the skills, attitudes, interventions, questions, ethical considerations and strategies that help them manage the process. It ends with a section highlighting the “magic” of mediation - the elusive, but ever-present opportunity to help people express their deep humanity and generosity.

The mediators have written their experiences in an informal, conversational way that gives a sense of the ebb and flow of the process. They appealed to my desire to see how each story ended. The book drew me in. As I now live in Qatar, I was especially interested in the story that described disputants from the Muslim faith and the role early evening prayer played in resolving the dispute.

The table of contents provides an easy way to track each story, how it fits in the broader organization of the book, the name of the mediator and his or her country of origin. The last few pages provide short biographies of the included mediators. After reading each biography, I knew I was in the company of some of the most dedicated, best-trained and most innovative mediators anywhere in the world. The book does not include an index.

In 2012, Lela Love and co-editor Eric Galton produced an earlier edition of this book that focused on the stories of US mediators.² Taking a storytelling approach provides valuable information not often shared by mediators given the strict rules on confidentiality of mediation communications. However, because mediators often work alone, having access to the wisdom of experienced mediators helps all mediators provide high-quality services to the disputing parties. Other authors have taken this storytelling approach - Deborah M. Kolb³ and Ken Cloke & Joan Goldsmith.⁴ However, most of these stories also focused on US mediators. Accordingly, this volume fills one of the gaps in the literature by giving us access to stories from other parts of the world.

Inexperienced mediators will find this book very helpful. Experienced ones will learn more about seating choices, forms of reality testing, zones of possible agreement, group dynamics and the need for trust, competence and what one mediator calls “benevolence”. The book,

2. Eric Galton & Lela Love, *Stories Mediators Tell* (ABA 2012).

3. Deborah M. Kolb, *When Talk Works: Profiles of Mediators* (Jossey-Bass 2001).

4. Kenneth Cloke & Joan Goldsmith, *Resolving Personal and Organizations Conflict: Stories of Transformation and Forgiveness* (Wiley 2000).

however, includes discussion of even more sophisticated aspects of conflict resolution including procedural justice, “core concerns”, cognitive theory, deeper-level interventions, managing party emotions, appreciative dialogue, apology and managing value or religious-based disputes.

I have several comments to improve the next edition of the book. At the end of Chapter 6, “Dumbbells, Defibrillators and Different Legal Cultures,” the mediator’s reflection focuses on the lack of local legal knowledge by the plaintiff’s counsel and how that led to an angry explosion and an abrupt end to the mediation. As I read the story, I felt the chaos in the room. I would have preferred to learn what the mediator would have done differently to handle the problems once they unfolded in the process. Two things seemed to put the mediation off track. An early discussion of damages and a failure to explore the source of the lawyer’s intense emotions. I would also want to hear why he decided to explore the damage calculations at what seemed to be a very early stage of the mediation. In Chapter 11, “Mediating a Medical Matter,” I was confused by the timeline. It describes the plaintiff as a wheelchair-bound woman in her fifties, but then discusses her attempt to carry a pregnancy to term. A short transitional phrase, explaining when conception occurred, would solve that problem. This volume gave less attention to Africa and the Arab world, two high-conflict regions with less mediation capacity. The next volume could include more stories from these regions. I am also concerned that of the twenty-five stories included, only seven women mediators found a voice in this book. An index could also provide value to readers.

My hope is that Prof. Love continues to create volumes in this series. I would like to see one dedicated to multi-party disputes and one to state-to-state disputes, like the “eye of the storm” in which I currently find myself. If I had that book, I would immediately mail a translated copy to the Kuwaiti mediator.

Bibliography

Cloke, Kenneth & Goldsmith, Joan, *Resolving Personal and Organizations Conflict: Stories of Transformation and Forgiveness* (Wiley 2000).

Galton, Eric & Love, Lela, *Stories Mediators Tell* (ABA 2012).

Kolb, Deborah M., *When Talk Works: Profiles of Mediators* (Jossey-Bass 2001).

OHCHR Technical Mission to the State of Qatar, Report on the Impact of the Gulf Crisis on Human Rights, at 14, ¶ 59 (December 2017), available at <http://nhrc-qa.org/en/themencode-pdf-viewer/?file=http://nhrc-qa.org/wp-content/uploads/2018/01/OHCHR-TM-REPORT-ENGLISH-1.pdf>.