

Struggling with God ...mediation and religion

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This article is not about existential angst. Rather, it is about the challenges of mediating family disputes with those who adopt rigid faith based positions.

Examples

Parties in mediation might make the following assertions:

- they should physically discipline their children, because that is what their holy scriptures tells them to do;
- their children should spend long periods at their place of worship, despite this severely curtailing extra curricula and leisure activities;
- unlike their sons, their daughters should remain closeted at home, because that is divinely ordained;
- there is no need to consult about guardianship matters with the mother of the children, because their holy scriptures say that fathers have sole authority over children;
- their sick children do not need doctors because illness can be cured by prayer.

The problem

Most family lawyers and mediators would want to challenge the positions taken by such parties as contrary to the interests of children, if not the law.

The problem is that in resisting such challenges, parties cite God in their defence. Before we know it, it is us versus God. There are no prizes for guessing who will win that struggle. How can we possibly convince a party that we are right and God is wrong?

The solution

The solution is to side-step the problem by ensuring that the discussion is about children, rather than religious precepts. Fruitless religious debate, and threats to deeply held religious beliefs, should be avoided. Instead, the mediator should tap into the desire of the parties to do the right thing by their children.

How is this achieved?

Here are some ideas:

- Begin with ourselves. Our personal views about religion and the matters under discussion can jeopardise constructive discussion. We should stay calm in the face of parties expressing views which we consider are ill informed at best and dangerous at worst. Equally if we subscribe to the religious beliefs being expressed, we should avoid loss of objectivity. We should keep our personal religious or atheistic convictions out of the mediation.
- Acknowledge and show respect. Faith

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based views are usually deeply held and central to parties' lives. We should let parties know that we understand how important their religious beliefs are to them. That is especially the case if they know or suspect that we do not share their beliefs. We should express respect for their faiths, especially if they are minority faiths. This does not mean we have to endorse those faiths.

- Ask the parties to express their hopes, aspirations, fears and concerns for their children. We should then probe behind their answers to allow us to identify and explore what is seminally important to them.

Taking each of the examples referred to above by way of illustration:

- Is there a morbid fear of the children becoming wayward?
- Is there a strong desire that the culture embodied in the religion be passed on to the next generation?
- Is there a discomfort about female sexuality?
- Does the father fear that he is losing influence over the children?
- Is going to a doctor viewed as a lack of religious faith?

Ask the parties how their hopes and aspiration can best be achieved, and their fears and concerns best addressed. For example:

- "What are the best ways to ensure that your children do not fall into crime and drug taking?"
- "What are the best ways to ensure that your children will not lose your culture?"
- "How can you best assist your daughters remain chaste once they become teenagers?"
- "How can you best instill good values in your children?"
- "How best can you keep your children healthy?"

By a combination of questioning, sharing knowledge, and making suggestions, we can assist the parties achieve child friendly solutions which sit comfortably alongside their faiths, or better still, which reinforce them.

Recognise that there is inevitably diversity and good sense amongst those who share the same faiths as parties. If they are honest, parties will admit that within their own faiths there is room for differing views about parenting. We can use this as a means to challenge their dogmatism. We can suggest outcomes which utilise the wisdom and experience of others sharing the same faith.

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