Hidden Communications, Organisational Borders and Mediation

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Abstract

In this paper, the concept of mediation as an institutional tool to render organizational conflict, and therefore ensuing communication, invisible is discussed. The concept of a marginal system that insulates the organization from its environment is presented. It is within this marginal space that mediation to solve organisational conflict takes place. These concepts are illustrated with a hypothetical case that demonstrates the complexity of this particular marginal system. The paper concludes with recommendations on how to implement more effective alternate dispute resolution services that become part of the formal organisational system.

Keywords

Hidden communication, Mediation, Marginal system, Organisational system

Introduction

Alternate dispute resolution within organisations has become common practice in meeting employment relations legislation (Report, No date) and providing a healthy work environment. It appears that in this particular case, alternate dispute resolution has been relegated to the margins of organisational activities as institutional issues become individual problems (Herr, 2005). In the hypothetical case presented in this paper, informal mediation as an alternate dispute resolution is hidden from the official organisational system and confined to a border system (Figure 2). The views of a range of stakeholders in the informal mediation
process are considered. This case demonstrates the communication processes in linking a border to an official system; and the implications of hiding alternate dispute resolution. The structure of the paper is as follows: firstly one definition of mediation is proposed; a short literature review is presented that discusses mediation in organisational settings; the hypothetical case in then described. This is followed by a discussion that places the hypothetical case within a systems framework for marginal systems. Finally findings and recommendations for further research directions are presented.

Mediation Defined

Charkoudian, Ritis, Buck and Wilson (2009) suggest that mediation is hard to define and that mediators either follow a well-defined model, as in this case, or that they tend to follow a more intuitive approach in which solutions are elicited. Charkoudian et al (2009) found that in their study, mediators did not tend to mix mediation styles. Arrow, Mnookin, Ross, Tversky and Wilson (1995) in discussing barriers to successful conflict resolution suggest that conflict resolution is context dependent and suggest that dispute resolution is interdisciplinary in nature. They believe that no one theoretical perspective and no single discipline have a monopoly on useful insights concerning dispute resolution.

One definition of mediation emerging from the legal discipline is:

“The process by which the participants together with the assistance of neutral person/s, systematically isolate disputed issues in order to develop options, consider alternatives and reach agreement that will accommodate their needs.” (Leadr, 2002)

In the Leadr (2000) model (Figure 1), the mediator maintains a detached, neutral and unbiased position. This is stressed in this model as befits mediation training within the legal profession. In this model there is an initial a joint meeting of parties. When the issues have been aired and heard by both parties, separate sessions between the mediator and each party are held. It is then mediator’s role to help the participants requiring mediation to move towards their own solutions. Usually, there is a final meeting in which the mediator assists with a negotiated solution.
Literature Review

Mediation characteristics

Arrow et al (1995) stress the importance of a neutral third party in achieving successful dispute resolution. A neutral party is more likely to be trusted by both sides, and there is less likelihood of the parties engaging in institutional bargaining tactics. These authors also suggest that it is important for parties to move beyond posturing and recriminations. In the Leader model, the mediator focuses the parties on the issues and away from recriminations against the other party.

Bryant, and Cox (2006) state that at times of organisational change, emotions run high and, in turn tend to be suppressed for a number of negative reasons including fear of retrenchment. Conflict often accompanies organisational change, and the emotional component needs to be considered.

Organisational mediation tends to be bargaining rather than therapeutic (Warters, 2000). Both parties are encouraged to reach a mediator-facilitated solution.

Mediator characteristics

Characteristics of a mediator include: listening, empathy and neutrality. Informal mediation in this hypothetical case is based on the Leadr model in that the mediator acts as an impartial negotiator. Closure in the case described did not require a final meeting of the participants in the mediation.
Mediation and Organizational Structures

Checkland (1984) in defining general systems states that systems have four core properties: structure, communication, control and emergence. Organizational structure is provided by reporting lines and duties within the organization. Communication in organizations is generally considered to be communication between people that may or may not be assisted by technology. Control within an organization is usually provided by rules, regulations, mission statements, operational procedures and practices. Emergence usually refers to those characteristics, properties, entities or events that surface when the system is considered as a whole.

It is helpful in considering organisational alternate dispute resolution to consider a border system in which complex activities may occur (Figure 2).

Organisational Border System (The Margins)

The inner border-edge provides a boundary with the organisational system whilst the outer edge separates the organisational system from its environment. The outer edge is defined by the external view provided by public websites, advertising, annual reports and media statements.

![Organisational Border System (The Margins)](image)

Figure 2: Border System (The Margins)

The inner edge lies within the organisational system and provides a buffer between private and public information, communication and processes. Confidential meetings, hidden structures and roles within an organisation inevitably reside within a border. In a healthy organisation the inner border-edge becomes porous allowing the free flow of information as well as protecting required confidentiality. Unofficial transformational processes, either
within formal personnel structures or as formal institutional procedure exist within the border or margin. Informal mediations are transformational processes that occur within the border. In this case, control mechanisms within border systems may become an organisational issue. Communication within the border may also pose organisational issues as hidden activities may not have clearly defined communication lines. It seems that when conflict arises within the official organisational it is then necessary that some form of alternate dispute resolution that is then conducted within the border system.

Figure 2 shows an organisational system that is highly structured, controlled by vision, statutory requirements, policy, operational procedures that operate with a formal hierarchical structure in which there was limited communication flows. Surrounding the formal organisational system is not just a boundary but a border system that encompasses a complex organisational ‘shadow space’ in which multiple dimensions of being are possible. This border system provides a buffer from the outside environment, particularly when conflicts arise. It is within the border system that alternate dispute resolution occurs as the organisation relegates disputes from public to confidential spaces. Mediated processes are confidential – public disputes are therefore rendered private and often individualised (Herr, 2005). These mediated processes happen within the border system, away from the formal organisational system and hence become invisible. All stakeholders involved in any dispute will view the border system and its links within the formal system differently.

Figure 3: Alternate Dispute Resolution Procedure
A Hypothetical Case

The alternate dispute resolution within institution X is conducted by voluntary internal service positions. Fifteen contact harassment people and an informal mediator perform these roles voluntarily as well as their normal employment contract.

The Contact Harassment List

The organisational conflict resolution procedures (Figure 3) require a list of contract harassment people as a first contact point.

These people are organisational volunteers from a range of positions. Contact harassment people are required to cover academic discipline, student support, allied staff, onsite contractors and student residences. Volunteers are requested at the end of each year to undergo selection and training. The hypothetical case presented was initiated by one of these contact harassment people.

The Informal Mediator

Informal mediation is required as the third step in problem resolution (Figure 3) in which the informal mediator is a neutral facilitator (Figure 1). Mediation skills and knowledge include: organisational knowledge, classroom practice, teaching and learning skills, interpersonal understanding and an ability to empathise. Erickson (2000) suggests that a “designated insider” is often better placed to facilitate alternate dispute resolution.

The informal mediator has no official position within the organisational structure (Figure 4) and therefore is invisible within the institution. Erickson (2000) suggests that the most effective ‘designated insider’ in alternate dispute resolution is one that is visible, and that credibility for such a mediator needs to be reinforced from within the organisational structure. Also, in the official alternate dispute resolution brochure the only referral to informal mediation is in the procedural flowchart (Figure 3) in which the informal mediator is not named. Invisibility therefore, is reinforced across the institution as well as within the official organisational reporting lines.

The Conciliator

The conciliator has an official salaried position within Institution X and acts as the final internal arbiter before outside resolution is sought (Figure 4). The conciliator therefore, is part of the official system within the organisation and often acts as the conduit for information between the informal mediator and the appropriate functional unit within the organisation.
The Human Resource Manager

One human resource manager is responsible for the selection, training and operational management of any internal alternate dispute resolution procedures. Both the human resource manager and the conciliator report independently to the registrar who is a member of senior management team (Figure 4). The informal mediator is required to report the final outcome, but not the detailed content of any mediation session.

The Case

After a student-complaint was raised with a contact harassment person, the human resource manager then briefed the informal mediator and separate appointments were made with both the complainant (Sue) and the respondent (Josie) (fictitious names used in this hypothetical case). Sue was a fulltime student in her early twenties who was attending class with a group of friends. Josie was a part time student in her forties who worked fulltime as well as raising a family. For Josie, time was an issue as she had many pressures on her daily life with work, family and study commitments. Once the complaint had been lodged, Josie, the respondent, fulfilled her meeting obligations promptly. The complainant (Sue) did not. For Sue, there were no such pressures, she was enjoying study with her group of friends and was partly supported by her parents and partly by a student loan. It was only after intervention of another family member that Sue returned the informal mediator’s call. When the Josie met with the informal mediator, she was angry at having a complaint laid against her. Josie said at this meeting “I’ve done nothing wrong. Those girls have just ganged up on me – they fool around instead of learning”. In her employment as a debt collector, she was familiar with legal alternate dispute resolution. The reason for the complaint made against her was stated as two occasions when Josie had spoken inappropriately to Sue. Sue said to the mediator: “What she said to me was totally sexist. My friends agreed with me as well.” (Any incident must be of a repeated nature. Do two occasions constitute repetition?) Josie was well prepared for the informal mediation meeting with a written statement and a letter to Sue withdrawing her
remarks (No apology was made either to the informal mediator or to Sue in her written statement).

In Sue’s telephone conversation, the informal mediator was told by Sue that she was unable to meet because she worked. The informal mediator was also told that Sue did not want to carry the matter any further and that this had been conveyed to the person with whom she had previously spoken. (There is some confusion here about who the ‘other woman’ was: the contact harassment person or the human resource manager. The informal mediator’s assumption was that it was the contact harassment person, because explanations about rights and process originate with the contact harassment person. This particular contact harassment person was very sensitive to what constitutes sexual harassment.)

Sue and Josie agreed about what was said on two occasions in which offence had been taken. However, there was not agreement about the intent behind these two utterances. Josie believed she was being friendly with the group of younger students. Sue, on the other hand reacted to the words as if they were a demeaning. (Sue did not label the two occasions as harassment – just that she and her friends did not like what was said.) It was only after Sue had met with the contact harassment person that the harassment label was placed on the situation.

Agreement was reached that Sue would stay away from Josie on campus. Sue also stated that she would complain again if anything else was said against her. Josie’s main wish was to finish the semester and pass the paper.

This should have completed the informal mediation, with one more phone conversation to Josie to relay the agreed terms. However, it seemed to the informal mediator that there were a number of issues that needed attention. Questions posed about this mediation were what the role of the contact harassment person; the direction the mediation process took; the lines of communication in the established alternate dispute resolution procedures; the human resource manager’s role; what constituted a complaint; and the invisibility of the informal mediator in the alternate dispute resolution process.

The Registrar’s View

The registrar has ultimate responsibility for alternate dispute resolution and as a senior manager holds the institutional view that: conflicts should be resolved within the organisation; formalised procedures and policies protect the institution; and these should operate in the most cost-effective way possible (hence the voluntary services of contact harassment people
and an informal mediator). The unspoken view of the registrar was that alternate dispute resolution should happen away from the public and media attention is to be avoided. In placing alternate dispute resolution within the border system (Figure 2), any mediated solution is rendered invisible within both the formal organisational system and the outside environment. The confidential nature of mediation also isolates particular disputes from one another within the border system, particularly if these disputes are facilitated by different organisational volunteers.

The Conciliator’s View
The conciliator only becomes involved when alternate dispute resolution goes beyond informal mediation. The conciliator is the last internal resource for alternate dispute resolution. Because the conciliator’s position is officially recognised with a direct link to the registrar (Figure 4), this provides an important link between formal and border systems. The close contact between the informal mediator and conciliator: provides a supervisory service once a dispute has been resolved; and more importantly sets up a two-way link between formal and border systems. However, this link is weakened by invisibility and lack of acknowledgement of informal mediation. Further weakening the link is the different nature of energetic spaces that exist between formal and border systems. The border system is one in which discussions are often emotional - trust needs to be established for alternate dispute resolution to move forward. A mediated solution is just as likely to be found with emotional rather than rational agreements. Within the formal system discussions normally take place in a rational framework.

The Informal Mediator’s View
The informal mediator operates completely within the border system (the margins). The role is invisible to the formal hierarchy (Figure 4), the informal mediator is not named (the alternate dispute resolution process only refers to ‘informal mediation’ (Figure 3) as a step in the alternate dispute resolution process). The informal mediator’s indirect links to the formal system are with the conciliator who reports to the registrar on a regular basis; and outcome reporting to the human resource manager.

The Human Resource Manager
The human resource manager’s role is to ensure that organisational policies and procedures are followed for alternate dispute resolution in a timely fashion and that outcomes are reported back to her from the informal mediator. Experienced human resource managers in alternate dispute resolution bring to the role considerable tacit knowledge that help to ameliorate decisions, and to monitor and expedite mediated solutions.
**The Contact Harassment Person**

In the organisation there is a formal contact harassment list. The people on this list are the first person contacted when alternate dispute resolution steps are taken.

The contact harassment person’s role is to listen to the complainant only; advise on individual rights; assess whether there is a complaint to uphold; make sure that the complainant is familiar with organisational policies and procedures; and advise the complainant on subsequent alternate dispute resolution steps. The contact harassment person does not have direct contact with the informal mediator or the conciliator. The contact harassment persons reporting line is to the human resource manager. Contact harassment people may call on each other for debriefing and support, as extra voluntary activities.

**The Complainant**

Often a complaint arises from a sense of unease about a situation –“something not being quite right”, a lack of understanding about organisational policies and procedures, and no knowledge about with whom he/she should be discussing the complaint in the first instant. The complainant is reliant on the contact harassment person’s interpretation of the situation to dictate what alternate dispute resolution steps need to be followed.

**The Respondent**

The respondent is often unaware that her/his behaviour lies outside of organisational and/or individual norms. As in the case described, the respondent’s reaction to being notified of a complaint laid against her was one of anger and defensiveness.

**Discussion**

This case highlights some important issues for organisational alternate dispute resolution. In line with a major tenet of complexity systems that suggests that careful consideration of initial conditions can alleviate subsequent complex state (Stacey, 1996), it is evident in the case described that the role of the contact harassment person is vital in setting initial conditions. Indeed, it appears that selection and training of contact harassment people is an important precursor for setting an appropriate direction for alternate dispute resolution. Because contact harassment people are voluntary, this poses a dilemma for the institution, which is how can performance be monitored, evaluated and improved when the service provided is voluntary. If a contact harassment person holds an extreme view about harassment, and alternate dispute resolution, this is likely to affect the direction taken. In the
case described, a radical view appears to have escalated a general complaint about in-class behaviour to alternate dispute resolution.

Expanding this organisational boundary to a border system provides a space in which alternate dispute resolution activities may be hidden. Alternate dispute resolution policies and procedures are set and initiated within the organisational system, and conducted within the border system after communication from the human resource manager to the informal mediator. This communication provides the link across the internal edge of the border system from then formal organisational system.

**Findings**

When we consider what might happen if alternate dispute resolution is moved from invisibility within the border system into the official organisational system we need to ask what would be the fallout. Whilst contact harassment people are recognised and named within the organisational, the informal mediator is not. Contact harassment people operate within the organisational system within a voluntary capacity. The informal mediator operates within the border system. By not naming or paying for alternate dispute resolution services, the organisation relegates this important activity to the border where there is no quality control, performance management, monitoring or evaluation. It seems logical and necessary that the mediator be formally recognised so that a feedback loop can be established back into the formal system and policy and procedures reviewed. Whilst Herr (2005) found that institutional problems were relegated to individuals moving mediation into the margins of organisational activities also renders these activities invisible.

A result from this hypothetical case should be a debriefing session with the human resource manager and the registrar to review existing policies and procedures to ensure that the official system is providing appropriate support for alternate dispute resolution. If indeed, the border system is the appropriate place for mediation to occur then perhaps a more porous inner edge is required from the border system.

The contact harassment person’s role in alternate dispute resolution is pivotal in setting the direction for alternate dispute resolution to take. Whilst the contact harassment person’s role remains voluntary, the organisation is left with a major dilemma on quality control for alternate dispute resolution.
Arrow et al (1995) suggest that in any particular dispute, it is important to understand the specific history and content for each given dispute and to appreciate the social, political and institutional context surrounding a given negotiation. In this particular case multiple views of the process, content and context have been presented in order to provide a more complete picture. Comparing this particular view of the mediation process with another is problematic, therefore.

**Conclusion**

An alternate dispute resolution hypothetical case has been the vehicle to explore the presence of an organisational border system as an extension to core systems properties (Checkland, 1984). Multiple dilemmas have emerged in this organisation. Exploring the links across the inner edge of the border system and transformational processes that occur within the border shed new light on alternate dispute resolution in organisational settings in viewing mediation from multiple points of view.

Financial pressure, voluntary service and a culture that renders alternate dispute resolution invisible all contribute to challenges in maintaining a healthy organisational culture.

As Arrow et al (1995) suggest, conflict resolution within organisations is context dependent. In this case theory formation embedded within systems thinking has helped to deconstruct the case presented.

**References**


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