

Bandaging Wounds: Healing through Mediation

By CAB USA

Mediation can set parties suffering from the trauma of a dispute onto a path of healing, regardless of whether the mediation successfully resolves the dispute. This is a central principle underpinning the work of the Aga Khan Conciliation and Arbitration Board for the United States of America (CAB USA). This article outlines some of the restorative practices employed by CAB USA when seeking to initiate a healing process, i.e. “bandaging wounds” of parties.

OVERVIEW OF CAB USA

Founded in 1986, CAB USA provides pro bono community-based mediations using over 50 volunteer mediators across the country. Most of CAB USA’s mediations relate either to matrimonial or business disputes. CAB USA offers its services in matters in which at least one party is a member of the Ismaili Muslim community, generally known as Ismailis. Ismailis belong to the Shia interpretation of Islam and are highly diverse in their ethnicity, language, culture, and geography.

CAB USA is the American affiliate of the global CAB system, comprising eighteen national boards that mediate in more than twenty countries. Across the entire global CAB system, CAB’s mediators are volunteers and undergo a standardized 40-hour residential training Mediation and Conciliation Training Program at the outset of their service.

BEGINNING THE HEALING PROCESS

Central to CAB USA’s bandaging wounds focus is a desire and responsibility to foster harmony. CAB USA takes a broad view of harmony, considering relationships among the parties themselves, their families, and their communities, regardless of whether the parties decide to remain together. The practices detailed below aim to set the parties on a path of healing, so that they can leave the emotional hurdles and resentment of conflict behind. Specifically, CAB USA’s practices consist of: (i) a consciously empathetic process, (ii) referrals for inter-institutional support services, (iii) self-help resources, (iv) tools for considering the needs of non-party children, (v) a forward-looking end-of-mediation session, and (vi) post-mediation assistance.

An empathetic mediation process

Foremost among CAB USA’s techniques for engendering healing in the parties is the deliberate creation of an empathetic mediation. CAB USA mediators are periodically trained over a three-year cycle to employ empathetic responses when working with parties. This training involves exercises wherein mediators practice engaging parties with empathy by using non-verbal cues and reflective listening techniques, as well as honoring the desire of the parties to be heard in a respectful, confidential, and non-judgmental manner. Training sessions additionally focus on balancing these empathetic responses with mediator neutrality.

Referrals for Inter-Institutional Support

During mediation, CAB USA mediators identify situations in which one or more parties need support and services beyond CAB USA's competencies. In these instances, mediators offer to refer the parties to CAB USA's sister institutions serving the Ismaili community, such as the Aga Khan Social Welfare Board or the Aga Khan Economic Planning Board. Most referrals involve the mediator simply identifying service providers to the parties and encouraging the parties to contact the providers directly. This process insulates the providers from any knowledge that the mediation exists, as the providers are not aware that the referrals were made by the mediators. In certain particularly exigent circumstances, CAB USA contacts the service provider directly, with the parties' consent, in order to ensure immediate delivery of services.

Self-Help Resources

CAB USA maintains an extensive library of articles, videos, and presentations targeted toward individual skill-building in areas such as emotional health, self-care, anger management, and effective communication strategies. These resources are shared with the parties throughout the course of mediation at times when the parties are receptive to receiving them. Several resources are available in multiple languages to best meet the needs of the diverse community CAB USA serves.

Considering the Needs of Children

As a matter of course, CAB USA does not permit minor children to be present in mediation sessions, nor do the mediators engage with minors outside of mediation. The best interests of these non-party children, however, are of paramount concern to the mediators in any family dispute. To assist parents with determining the best interests of their children, CAB USA asks parents to consider the impact of the dispute on their children. Mediators are supplied with several articles, videos, and presentations describing the impact of dispute and resolution on children. These resources are shared with the parties at appropriate times and circumstances.

A Forward-Looking End-of-Mediation Session

In a continual effort to improve its practices, CAB USA has developed a new practice in which its mediators may ask to engage each party in an individual, private session to discuss the party's outlook for the future. The mediator may focus exclusively on the party's post-mediation future, thereby seeking to shift the party's outlook away from the events of the past and toward the future. Through the course of this exploration, the mediator may use framing techniques and empathy to assist the party with viewing his or her post-mediation future in a positive light. Such a session provides an additional opportunity to offer self-help resources and determine whether any referrals for additional support are needed.

Post-mediation Assistance

Between three to six months after the close of mediation, CAB USA conducts a survey to determine the parties' satisfaction with the mediation and the durability of their settlement agreement. This additional contact months after the close of mediation provides an opportunity to assess whether the parties continue to exhibit optimism about their futures, offer further self-help resources, and determine whether any additional referrals for inter-institutional support are warranted.

CONCLUSION

CAB USA, as a volunteer-driven institution offering community-based mediation services, employs restorative techniques to bandage wounds of parties affected by the emotional trauma of a dispute. When applied to mediations generally in many contexts, these practices can help set the parties on a path toward healing and a return to harmony in their lives.

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