BOOK REVIEW

CONTEMPORARY ISSUES IN MEDIATION (VOL 4)*
by Joel Lee & Marcus Lim

Geoff SHARP
International Mediator, Maxwell Mediators (Singapore) and Brick Court Chambers (London).

1 This wonderful book, published by the Singapore International Mediation Institute (SIMI) and now in its fourth volume, showcases mediation writing by students - not just from Singapore but from all around the world.

2 While it may seem unusual to have students write on topics in a field where one would think experience should count, there is wisdom to be found in the fresh eyes of young minds that have not been numbed by experience.

3 As indicated in the series foreword by my mediation colleague and co-founder of the Harvard Negotiation Project, Bill Ury: “We have the responsibility to ensure that future generations will be able to build on all that has been achieved. We must continue to plant seeds, not for ourselves, but for those to come.” With the recent signing of the Singapore Convention on International Settlement Agreements Resulting from Mediation1 (“Singapore Convention on Mediation”) these words take on a deeper significance.

4 This volume is divided into three sections. Part 1, titled “Getting to and Beyond Mediation”, has four pieces ranging from using choice architecture to increase the use of mediation to how legal education could be transformed to soften the adversarial culture and promote mediation.

5 There is a particularly insightful article on enforcing mediation settlement agreements under the Singapore Convention on Mediation which, at the time this article was written, was only in draft form. This thought-provoking piece by Chia Chen Wei not only looks at the opportunities presented by the Convention, but the author is brave enough to outline the risks as well, identified as the erosion of confidentiality and the overregulation of mediation practice. Both are spot on, as well as being particularly insightful from a young writer, and will exercise the mediation community for some time to come until we see how the Convention is used and fits into the landscape of international dispute resolution.

* Singapore International Mediation Institute, 2019.

6 Part 2, titled “Mediation Obligations and Ethics”, is timely because of the increased scrutiny of mediator conduct bought about by Art 5 of the Singapore Convention on Mediation. Article 5 provides a ground for refusing enforcement of a mediated outcome under the Convention by reason of a serious breach of applicable standards by a mediator. I have no doubt we will see much more written on this subject, and an interesting debate is to be had by new and old mediators as to what constitutes unacceptable behaviour by a mediator and the applicable standards to be observed in international commercial dispute resolution.

7 The mediation advocate has not been forgotten either. The old chestnut of honesty in mediation is discussed in “The Ethical Boundaries of Honesty in Mediation” by Lew Zi En. The article does not flinch from answering the hard questions on misleading statements about a client’s commitment to mediation, lies to gain an advantage and lies about material facts.

8 Part 3, titled “Mediation Skills”, has four articles about the practical skills required of a good mediator. These articles talk about how gender roles shape power imbalances in family matters and how mediators might learn from the skills used in crisis negotiations. This part is refreshingly honest, perhaps even beautifully naïve, absent the hard skepticism of a mediator seasoned by many winters of conflict.

9 In this part, I read with interest Wesley Aw Ming Xuan’s article “Are All Expressions of Anger Equal or Are Some More Equal Than Others?” And guess what?! Not all anger is equal! This is a fascinating take on the topic and not one that I had ever considered before; now that Wesley has kindly sensitised me to that, I have seen it in my own mediations – the different expressions of anger, how it can be authentic, or not, and how it is very contextual in its impact on the mediation.

10 This very readable book is worthy of a quiet corner on a rainy day – you can dip in and out or read it in one sitting, depending on your preference but all in all it is a refreshing take on a variety of mediation topics by enthusiastic eyes.