

WHAT IS **MEDIATION**?



In the same series:

What is Conflict?
What is Interpersonal Communication?
What is Negotiation?
What is Facilitation?
What is Decision Making?
What is Participatory Planning?

This Brochure was developed by Partners Foundation for Local Development FPDL, in cooperation with UN-HABITAT, in the frame of UN-HABITAT Settlement and Integration of Refugees Programme in Serbia SIRP

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WHAT IS MEDIATION?

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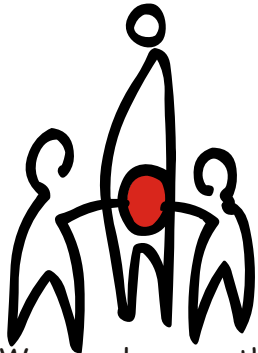
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ALTERNATIVE DISPUTE RESOLUTION

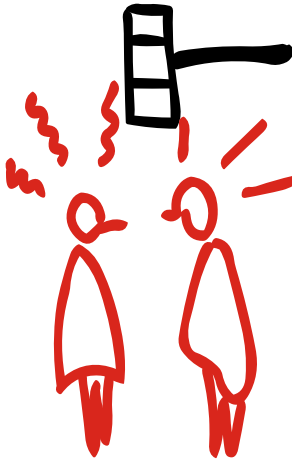


Individuals, groups and conflict resolution

Have you, as individuals or as part of a group, ever been involved in a conflict with your family members, neighbors, colleagues, bosses, or with your partners?

We are sure the answer is YES, because it is normal and natural to have conflicts and disputes!

We are also sure that you were not able to solve some of these conflicts and disputes through direct communication or negotiation, so that you were forced to try to defend your rights and fulfill your needs with outside help! Usually, when people are frustrated because they cannot solve their disputes themselves, they turn to the judicial system.



How many of the important conflicts you were involved in ended up in a judicial system?

We bet that you or your group decided to spend money, time and energy looking for a proper resolution in Court in at least one important conflict! And we also bet that it was a long lasting procedure, and your relation with the other party in the conflict was damaged!

This Brochure will help you better understand one of the Alternative Dispute Resolution Methods, which belongs to the Interest Based Approach family, called Mediation.

We hope that you will increase your knowledge regarding what Mediation is, when and why it is useful, what are the possible logical steps in **two-party** and **multi-party** mediation, what are the possible ways to overcome Mediation obstacles and what is a successful mediation.

Let's see first what does Interest Based Approach & Alternative Dispute Resolution mean!

Approaches in Dispute Resolution

If we take a look at the history of Dispute Resolution, we can see that the following approaches have developed:

The Power Based Approach



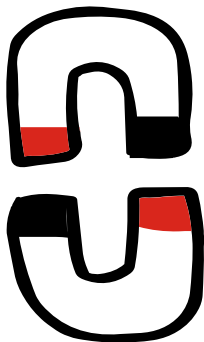
This is the most primitive and old approach to solving conflicts. The most powerful party solves the conflict unilaterally and achieves its objectives, by using power: verbal violence, physical force, or manipulation. The most violent form this approach can take is armed conflict. History showed us that outcomes of this conflict resolution approach are the least sustainable: usually, another series of violence is generated sooner or later by the reaction to violence!

The Right Based Approach



This is the most common form of conflict resolution approach where written or unwritten rules, define what is right and what is wrong, based on standards (behavioral, administrative, of leadership and control) and principles of ethics, morals, or religion. This approach assumes that a representative of a recognized authority, (in the past, the oldest and respected members of the community, nowadays, judges), analyzes the past, identifies who is guilty and who is right, and decides on compensations and penalties, which are binding to the parties.

The Interest Based Approach



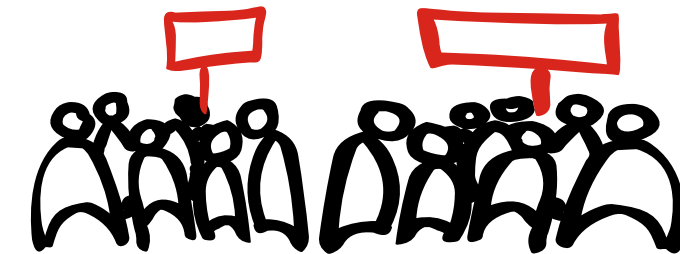
This approach focuses on meeting each party's interests, giving them the power to decide on how to solve their dispute/conflict. The Interest Based approach focuses on the future, allowing the parties to define the area of agreement and solutions. Through this approach, the parties try to find the answer to the following question: **How could we continue from this point forward?** Understanding that not every dispute qualifies for judicial decision, this approach offers several methods, called Alternative (to the two other two approaches) Dispute Resolution (ADR) methods, which are applicable to two-party or multi-party disputes.

Democracy Needs Alternative Dispute Resolution Methods

Democracy actively promotes differences, by encouraging the expression of diverse opinions, and the formation of different political parties or groups. Moreover, the market economy, the economic engine of nearly all democracies, promotes creativity, competition, individualism and the aggregation of resources that generates tensions and issues between competitors and non-market interests.

Currently, in the new emerging democracies, besides the "normal" disputes described above, there are other additional **tensions and conflicts**:

- Those inherited from the authoritarian regime, when the system was designed to manipulate or suppress all conflicts, and when all issues were politicized.
- Those conflicts brought by the transition, due to the major social and economic changes related to the private property, land titles and houses restitution claims, privatization of state owned commercial and industrial companies, labor and employment security, minority issues or building the market economy.



All these conflicts have overburdened the judicial system of these countries or have degenerated into strikes or violent street fights.



Unlike authoritarian regimes, prepared to suppress, manipulate or avoid conflicts, the goal of democracy is to transform all conflicts into manageable, peacefully settled disputes, in order to create a world more sensitive to the diversity of humankind and needs.

Democracy requires new mechanisms, new institutions and conflict management capacity, for both the civil society and government structures, at national as well as at local level.

In many democratic countries, these mechanisms, structures and skilled personnel are in place, offering space for addressing disputes directly, outside the judicial system, through Alternative Dispute Resolution -in short, ADR methods.

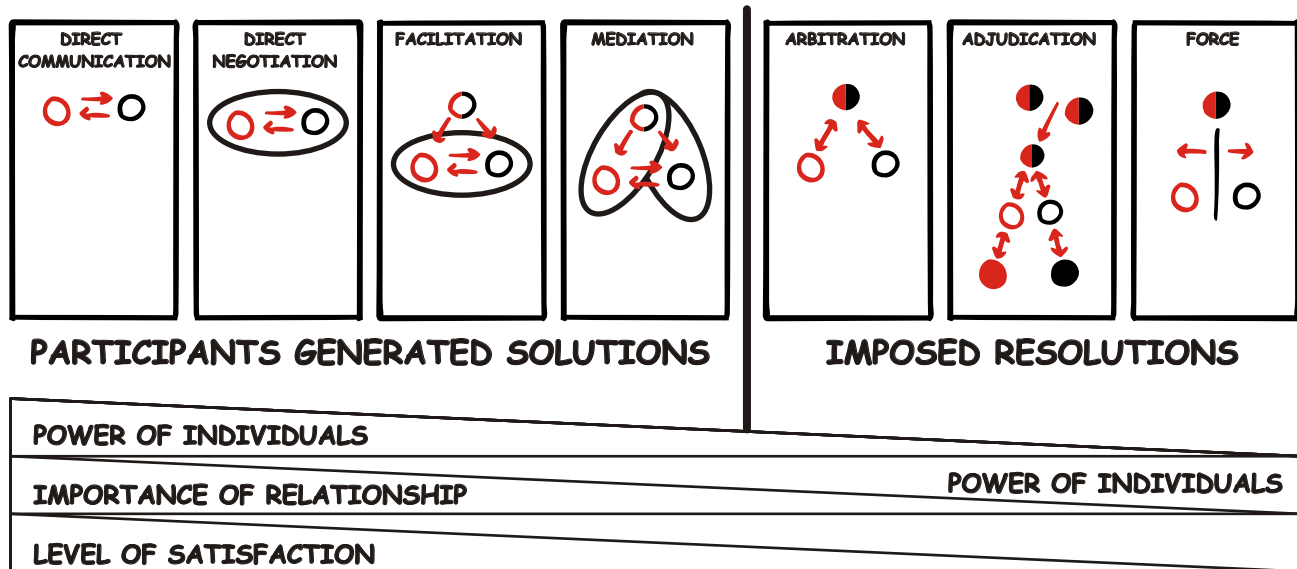
So, What Does ADR Mean?

Alternative Dispute Resolution refers to a range of dispute resolution methods, which are alternatives to litigation or the use of force.

ADR methods can be presented on a continuum from the very early stage of a conflict all the way to the high level of conflict intensity, starting from direct **Communication**, **Negotiation**, **Facilitation**, and ending with **Mediation**.

The diagram bellow illustrates this continuum of methods, also including the Rights Based Approach methods, pointing out to the fact that, the closer we get to Litigation, the more the power of individuals and their control over the resolution outcomes decreases, the level of coercion to enforce resolution outcomes increases, and the importance parties give to their relationship decreases.

CONFLICT RESOLUTION STRATEGIES



Common features of ADR methods are:

- They are private and confidential
- The rules of evidence are not strictly applicable
- They often end up in contracts and agreements
- The disputants select the opportunities and tailor the process
- If a third party is involved, he/she is neutral and unbiased.

UNDERSTANDING MEDIATION

Mediation - an ADR option

Direct Negotiations have the broadest application and are the most common form of dispute management in democratic societies. When Negotiation reaches an impasse and cannot progress, meaning that the parties are no longer able to properly communicate because of the high intensity of the conflict, they are polarized, stressed and upset, the need for a third neutral person arises to help parties move toward an agreement. This process is called Mediation!

Mediation is a structured negotiation process, facilitated by a third neutral party, the mediator.

Mediation is more accessible and understandable to the layperson, less adversarial, less expensive, and less time-consuming, and more likely to produce an outcome that matches the interests of the disputants.

Mediation is a chance for two people or groups in a dispute to come together, talk, and reach their own solution to an argument or conflict. It is a chance to sit down in a quiet place with a trained, impartial mediator, talk about what is happening, and figure out what everyone can do to create a mutually agreeable solution.

Mediation is a voluntary, non-binding, private process in which a neutral third party, assists the parties to reach a negotiated settlement of the dispute. Mediation is an opportunity, no more, no less!

Mediation is an attractive concept, especially in emerging democracies, where the judicial system is not working well, due to the huge number of cases and corrupt structures. The process of judicial systems reform in many parts of the world, especially in Central and Eastern Europe, facilitated the establishment and development of Mediation, as an ADR method.

Principles of Mediation



Voluntariness is the principle that acknowledges the right of parties to freely enter into both the mediation process and any agreement that may be reached in that process. Parties have a right to withdraw from mediation at any time.



Informed Consent is the principle that affirms the parties' right to being informed about the mediation process and their legal rights before consenting to participate in mediation or to the terms of an agreement reached in mediation.



Self-Determination is the principle that recognizes that parties in a dispute have the ability and right to define their issues, needs and solutions and to determine the outcome of the process without unwanted advice or suggestions from mediators. The parties have the final say as to the terms of any agreement reached in mediation.



Impartiality/Neutrality is the principle that affirms the parties' right to a process that serves everyone fairly and equally and to mediators who refrain from perceived or actual bias or favoritism, either by word or deed.



Non-Judgmental is the principle that affirms there is no determination of guilt or innocence in the process. The Mediation is future oriented, there is no focus on analyzing the past and organize investigations, the discussion about the past is to clear up misunderstandings, determine the underlying interests and concerns in order to define the area of the future solution.



Confidentiality is the principle that guarantees that all information received from the parties will be kept confidential. Any exceptions to confidentiality shall be made clear to the parties prior to their consent to participate in mediation.

The Mediators' Role and Characteristics

The mediators' role is to guide those involved in conflict through the steps of a collaborative negotiation process and help them find their own solutions.

More specific, the mediator is trained to:

- guide the negotiation process
- listen to each person or party
- draw out each party's concerns, interests, values and needs
- facilitate useful exchange of information
- assist parties in developing possible solutions to their conflict
- help parties overcome impasse
- negotiate an agreement that both parties can accept and that meets the most important

interests of each party

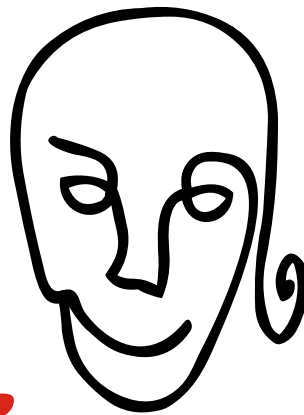
The mediator is not a decision-maker but a catalyst to achieve the conflict resolution!

The mediator's qualities could be defined around the following three main characteristics:

Neutrality and Impartiality

Mediators are neutral, meaning that they have no interest in the outcome; their role is to help both parties equally, by ensuring that the parties have an equal say in the process.

Mediators should act in a just, independent, fair and impartial manner, meaning that they should be free of favoritism or bias in word or action. Impartiality also implies the commitment to aid all participants, as opposed to any individual participant.

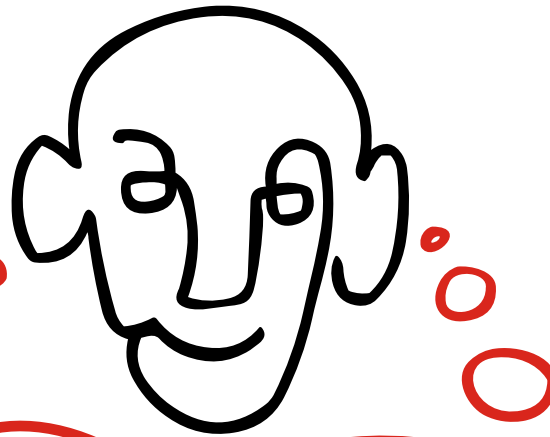


Mediators should maintain their impartiality while raising questions about the reality, fairness, equity and feasibility of the proposed options for settlement.

They should withdraw from the process if they believe that they can no longer be impartial.

Great Listeners

In order to help parties achieve their goals and recognize each others' goals, mediators should use a great amount of energy and concentration in order to be active, empathic listeners

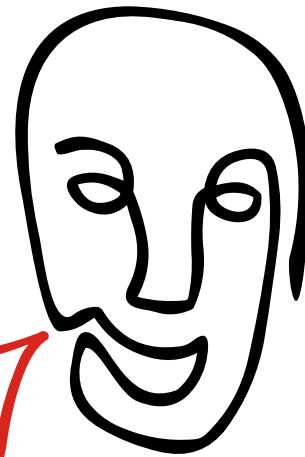


Through their active listening skills a mediator should:

- Convey respect and interest
 - Provide role model respectful listening
 - Convey empathy
 - Hear the parties' "terms" or "positions".
- Reflect back to the parties and the perspectives they are offering
- Discover underlying causes of their conflict, discover parties' interests
- Uncover misunderstandings
- Learn the parties' responses to offers
- Discover what the parties have in common
- Discover positive aspects to share
- Discover room for movement, discern a readiness to move forward
- Reflect parties' expressions of recognition

Great Speakers

For the most part of the process, mediators listen. When they speak, they do so purposefully, in order to enable parties to reach their goals.

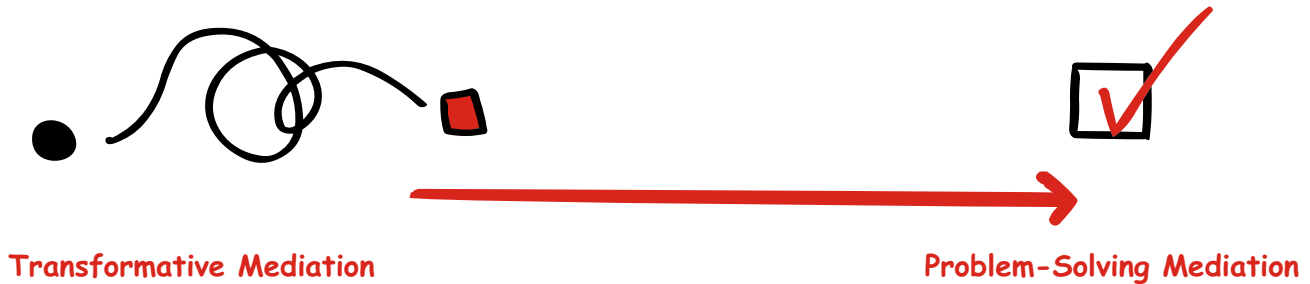


**Through their speeches,
Mediators should:**

- Set the parties at ease and earn their trust
- Make sure the mediation process is clear
- Draw out the parties' views of the conflict
- Give evidence they are listening, they understand and they care
- Help the parties hear one another
- Help parties explore the tensions between them
- Explore the nature of the relationship between the parties and any expectations they have for future interactions
- Explore underlying causes of the conflict
- Find out each party's interests
- Find out the limitations the parties must work with in developing an agreement
- Reframe the issues so that they can be better understood
- Help the parties invent options for mutual gain
- Check the receptiveness of each party to various options
- Transfer information with sensitivity and a sense of timing
 - Share positives
 - Explore the consequences of various options
 - Keep up the parties' morale

How to Approach Mediation?

Mediators may have different approaches to the mediation process, which could be placed on a continuum between two extremes:



The focus of Transformative Mediation is on parties' relationships, while that of Problem-Solving Mediation is on parties' problems.

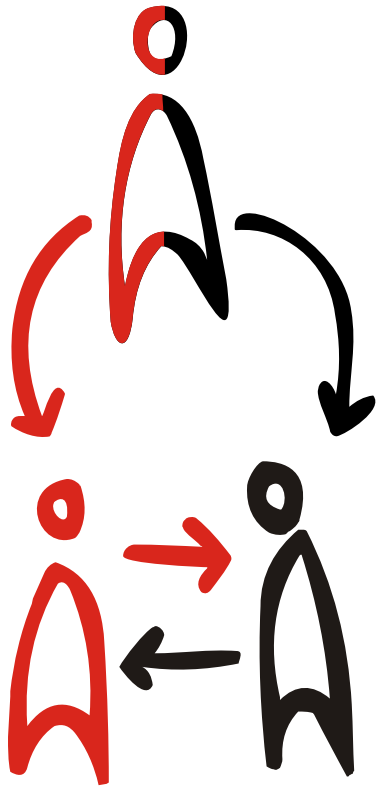
In reality, skilled mediators use a mix of all these approaches that best fits their personality, their education background and the conflict situation. In any case, mediators need to have knowledge of, and skills in, both types of mediation, because rarely do people bring their problems into mediation in a purely objective, unemotional manner. Often they feel angry, worried, or frustrated and this can become a barrier to solving their problems.

The transformative approach is usually thought to be useful in interpersonal conflicts where there is a history of close relationships among disputants, such as in family conflicts, conflicts between neighbors, or conflicts between co-workers.

A mediator should have problem solving skills, to be able to help disputants pick out the key issues, brainstorm and set priorities to focus on what is important and come up with solutions they can live with. But to identify the key issues, mediators should have the skills used in transformative mediation, that include being able to help disputants clarify their own thinking and understand how things look from the other person's perspective, even if they would continue to disagree with it.

Where Could Mediation be Used?

One of the amazing things about mediation is that it starts to be present in many parts of the world, in different contexts and sectors!



Classic Mediation

Mediation is a facilitative reconciling process whereby in a face-to-face setting, with the help of a neutral, parties explore their conflicts and misunderstandings and come to reconciliation.

Peer Mediation

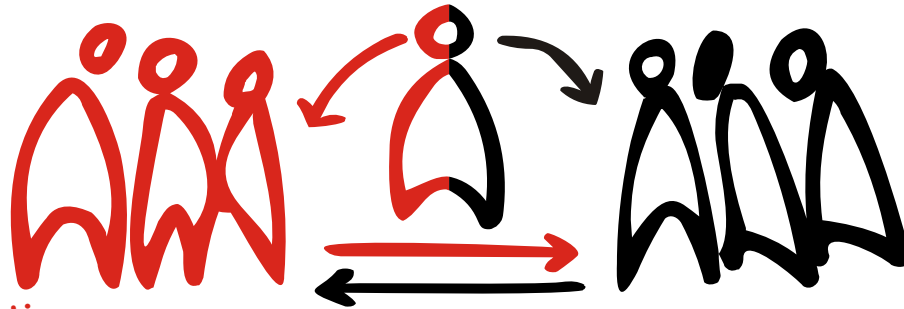
In a growing number of schools, a mediator is a trained student able to reduce conflict and violence in schools, through helping his/her colleagues to handle their disputes in a positive and non-violent manner

Victim Offender Mediation

In many communities, a mediator is an unpaid trained volunteer who brings crime victims and juvenile offenders together, to humanize and rehabilitate each other, to reach agreements for restitution and community healing, helping both sides and the non-violent offenders get back on the right track.

Family Mediation

Mediation is a part of family counseling for people getting divorced. It is a way for families who are splitting into parts to learn to deal with the changes in roles, duties and opportunities and to face those changes with emotional balance



Labor Mediation

Mediation is a labor conflict resolution tool aimed at finding a better way to end conflicts and improve feelings in the workplace.

Community Mediation

To many, Mediation is an alternative to the formal justice system, not a part of it, conducted by "real human beings" rather than lawyers. As a part of community action and conflict resolution, volunteers, often within Community Alternative Dispute Resolution Centers, resolve conflicts and problems that otherwise would end up in small claims courts.

Institutional Mediation

In large and diverse organizations, churches and others, mediation is a form of human resources management that aims to resolve conflicts and improve communication between those served and the institution and between the different members of the institution, it is a method of ensuring that problems are resolved rather than ignored, cured rather than allowed to fester.

International Mediation

Mediation is what diplomats do to prevent countries from going to war or to help countries at war find peace.

Court Mediation

In many countries, Mediation is a part of the civil court system where parties to law suits are aided in settlement negotiations aimed at helping them find their own best interest. This could be before or after court action has begun.

So, we could say that mediation can be used for various kinds of disputes:

- National and international
- Complex or simple issues
- Two-party and Multi-party

TWO-PARTY MEDIATION

Characteristics

There are a lot of Two-Party Mediation models, but all processes have the following essential characteristics:



- Voluntary: mediation is not mandatory, it happens if parties agree to participate
- Negotiationbased: not decision-based as court or arbitration process
- Binding outcome is possible: compared with Court / Arbitration where binding outcome is inevitable
- Confidential: all information remain between the parties concerned
- Informal: parties can discuss whatever issues they consider to be relevant, without having the fear that the content will be judged

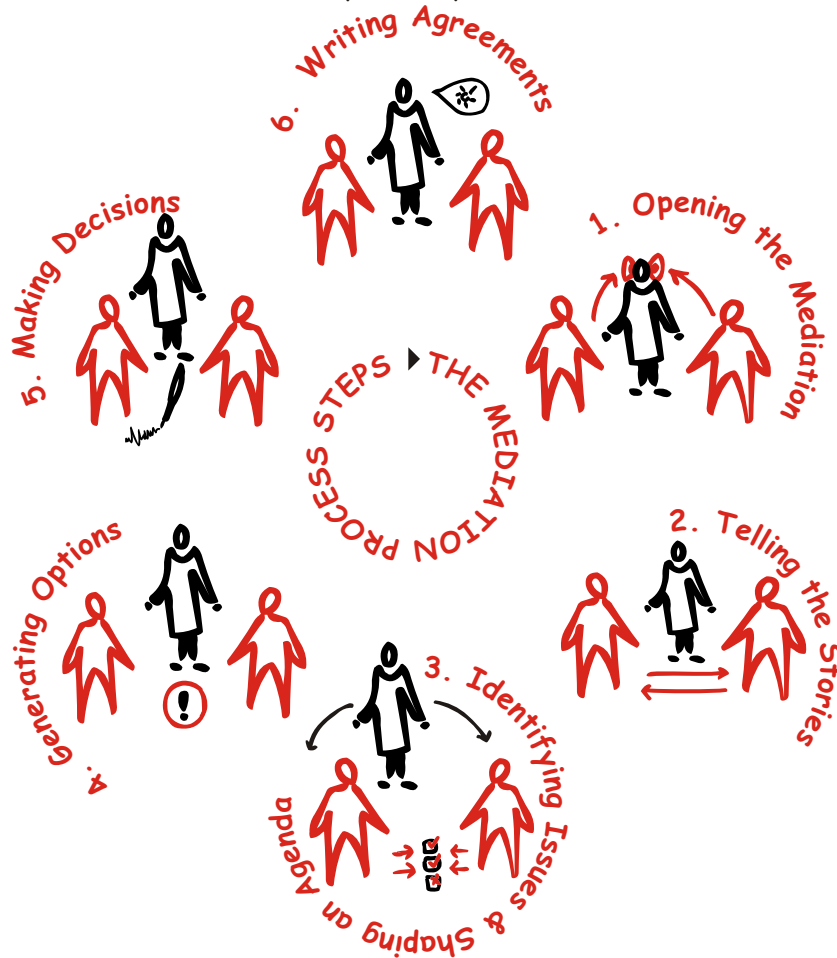
Advantages



- Efficient: it is less time and money consuming, by comparison to litigation
- Empowering parties: parties have control over the decision making process, not facing the risk of a decision that is made without their consent
- Constructive: the parties increase their chances to fix and improve their relationships, in contrast with litigation that ends up in blame and hostile feelings, damaging relationships
- Broad range of outcomes: as compared to the narrow range of outcomes in litigation
- Flexibility of process, venue, mediator
- Minimal risks
- Bridging "cultural" differences

Mediation stages

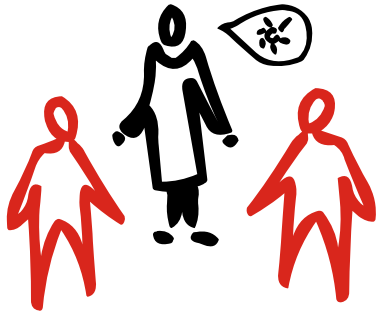
Most mediation processes are structured in several stages. For learning purposes we present the mediation stages in a certain sequence, even if the sequence and stages may vary depending on the case and author respectively.¹



Prior to mediation, the mediator has to:

- Contact the parties and be sure they want to proceed
- Check if they are comfortable with the mediator, if they trust his/her neutrality
- Set up a time and place to meet

1. These stages are adapted from Raider and Coleman, Collaborative Negotiation Skills Training



Stage 1: Opening the Mediation

The mediator's goals in the opening stage are to:

- Explain the process and its rules, especially confidentiality issues
- Create a "safe" climate
- Establish credibility
- Get commitment to mediate

At this stage, the Mediator sets the climate by an opening statement. The Mediator's opening statement should include the following elements:

Introduce self and participants

Talk about the role of the mediator, as facilitator of their conversation and decision-making, highlighting that the mediator is not a judge he/she will not tell them what to do or evaluate the "case".

Explain the mediation process and possible goals of the mediation:

- Possible resolution
- The opportunity to understand another's view and to be listened to.

Give assurance of confidentiality and mention any exceptions

Discuss and decide about "guidelines" for the process, such as:

- Try hard to listen and allow the other to speak
- Listen for new perspectives and ideas
- Avoid insults and put-downs
- Ask them about any suggestions for any other guidelines

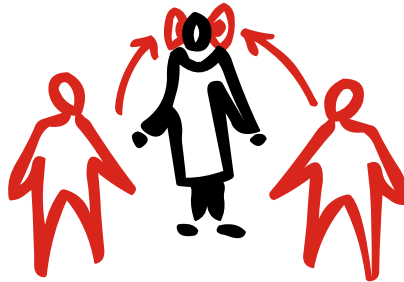
Confirm and acknowledge parties commitment to mediation

Describe usual steps in mediation

Discuss about the possibility of private meetings

These private meetings may be suggested by the mediator or the participants.

Ask for any questions and decide who speaks first



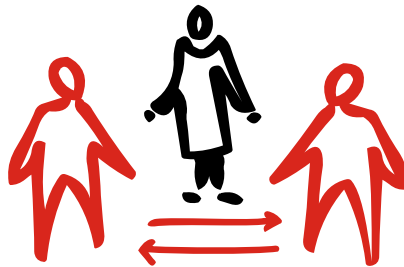
Stage 2: Telling the Stories

The purpose of this stage is for the parties to have the opportunity to hear each other stories, and understand each other perspectives, as well as for mediator to hear and learn about the issues, feelings and interests of both parties.

This stage should include

- An uninterrupted time for (a) each party to make an initial statement about his/her view of the situation and what s/he wants the other party to hear and (b) the Mediator to carefully listen and understand each party's interests beneath positions
- The Mediator's summary about what has been said by each party and possible questions to clarify thoughts, feelings, and interests
- The Mediator's statement that defines the parties' common ground (in the areas of interests or basic human needs) and begins identifying issues to be solved

During this stage the Mediator should be a model of behavior for disputants. Usually, this is when the parties are asked to talk directly to the mediator.



Stage 3: Identifying Issues and Shaping the Agenda

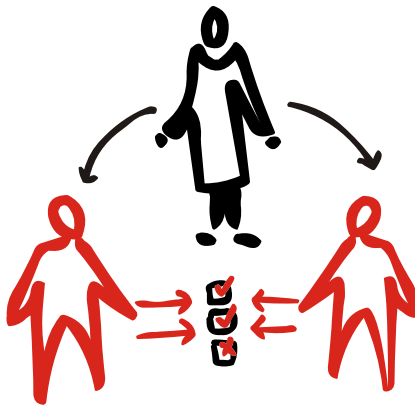
Usually, During this stage, the mediator asks the parties to talk to each-other directly and to express their interests, needs, feelings and values.

At this stage the mediator:

- Begins to identify issues, "framing" them in a neutral way
- Emphasizes needs, wants, fears, concerns, and perceptions that the parties share
- Stresses what the parties hope to gain through mediation
- Avoids looking for solutions when identifying issues
- Discusses the order in which the issues should be addressed
- Gets agreement on the agenda before proceeding
- Explores issues with questions and "cross-talk"

Challenges: keeping parties focused and the emotional level at a working level

Caution: do not jump to problem solving too soon, before all underlying interests surface



Stage 4: Generating options

The main task of the mediator at this stage is to help parties to generate creative solutions. At this stage, the Mediator:

- Helps parties brainstorm options
- Does not judge suggested solutions
- Is creative and builds on parties' ideas
- Addresses the others' interests too
- Uses caucuses (private meetings)
- Uses hypothetical questions to avoid escalation and "reactive devaluation"

Challenges:

- Premature judgment
- Assume single answer
- Assume "fixed pie"
- "It's their problem"

Caution:

The Mediator should provide clear ground rules about:

- Confidentiality
- Conditional proposals
- Withdrawal of ideas



Stage 5: Making Decisions

The task of the Mediators at this stage is to help parties evaluate the options and to select those that are more realistic and the parties perceived as most attractive.

This stage includes:

- Having explored the options, checking that each option is understood, and evaluating each option in light of the parties' interests
- Agreeing on general principles or criteria to evaluate options
- Looking for, and building on, partial agreements
- Postponing tough issues and revisiting them later
- Checking for priorities and trade-offs

Possible questions to make the parties examine their options:

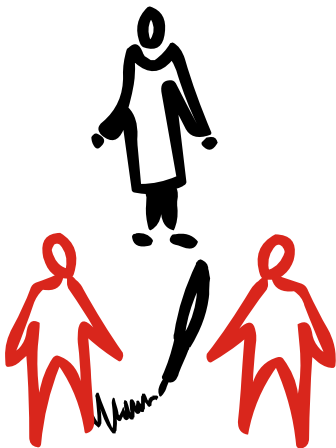
- How can you decide which option to choose?
- How can you accomplish what you want?
- What do you value in that idea?
- How do other people handle that problem?
- What would happen if you went to court?
- Would expert opinion be of any help?
- What are you trying to accomplish?
- How have you resolved this problem before?
- Are there other alternatives you can think of?
- What do you think that will/will not work?
- What would you need to resolve this dispute?
- What do you think the other party cares about?
- What would make you feel satisfied with this process?



Stage 6: Writing Agreements

Checklist for a satisfactory agreement

- Is the resolution specific enough? Does it tell when, where, how and who is responsible?
- Is the resolution balanced with both disputants sharing responsibility for making it work?
- Can the parties follow through on their agreements?
- Does the resolution satisfy the parties' needs?
- Has the process resulted in the parties' understanding each other's perspectives?
- Do the parties understand the language of the agreement?
- Have all the parties signed the agreement?



Caution: Non attorneys must be careful of any unauthorized practice of law rules or laws.

Obstacles in Mediation



As the mediation process proceeds, the parties sometimes reach an impasse, often not due to the dispute but rather due to their resistance to some solutions or simply due to exhaustion. While an impasse might signal that the dispute is unsolvable, the mediator may try to get the process moving.

- Difficult moments in mediation could appear because of:
- Difficult people, and their behavior when dealing with emotions

Difficult people, and their behavior when dealing with emotions

What kind of interventions could be useful when dealing with emotions?

Here are some possible actions:

- Affirm parties' feelings: "it must be difficult to lose a job..."
- Maintain an impenetrable calm and speak softly
- Refrain from making any judgmental assessments or comments
- Find words that are less volatile
- Set limits on emotions that are abusive or controlling: Indicate that attacks are counter productive to resolution
- Use questions to call attention to sarcasm or attacks: "what are the consequences when you say those particular things? Do you want to move on now?"



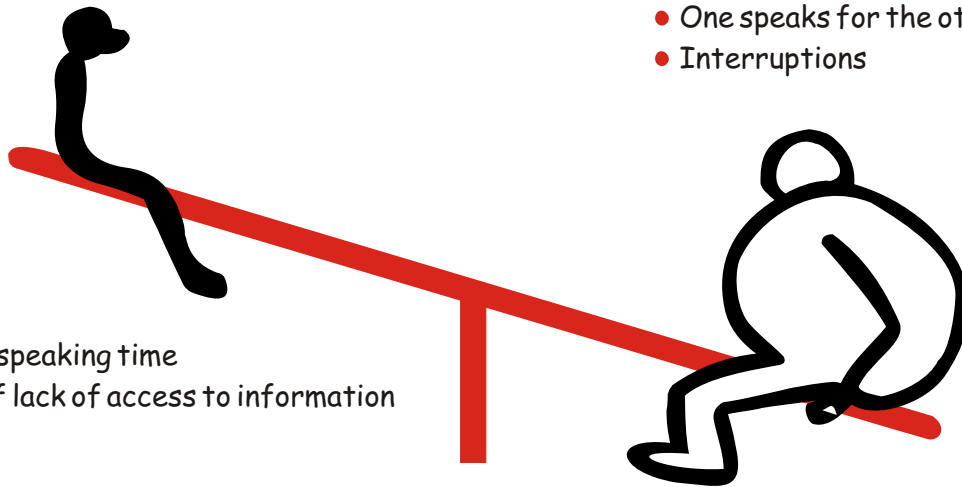
Power imbalance

For this second category of obstacles, first, the mediator should be able to observe and assess the power imbalance.

What kind of signs should usually alert the mediator?

- Manipulations
- "Consistent wins"
- One speaks for the other
- Interruptions

- Amount of speaking time
- Evidence of lack of access to information
- Silence



Once the mediator identified a significant difference between parties, he /she should address this power imbalance. What could the mediator do? Here are some ideas:

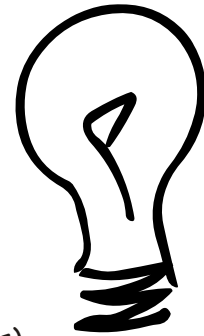
- Highlight that Mediation itself offers shared decision making
- Facilitate disclosure of information and help access information
- Determine level of understanding`
- Encourage speaking/ask to refrain from speaking
- Elicit help from more powerful party
- Confront more powerful party
- Restate the interests of the weaker party
- Use caucus; at times start/stay in caucus

Dealing with Impasse

Here are some ideas of what a mediator can do to get the process moving.

- Take a break: often things look differently afterwards
- Consider a caucus (a separate meeting with each of the parties)
- Use hypothetical questions (what if...?) Or a "mediator's proposal"
- Remind the parties about the mutual benefits of resolving the dispute
- Remind the parties of the cost/risks of not resolving the dispute
- Help establish the legitimacy of other party's interests (role reversals)
- Focus on the future not the past
- Create doubts about the strength of each party's position
- Give people an "excuse" to settle
- Place the responsibility to settle directly on the parties
- Ask for priorities
- Consider bringing other people to the table
- If all else fails, suggest (or threaten) ending the mediation. Parties who have invested in

mediation often won't want it to fail, and suddenly may come unstuck. This approach is useful where one party may be hanging on because he/she enjoys the attention the process provides, or enjoys the other party's discomfort.



Remember!

Sometimes the best offers are often wrapped in offensive language! The Mediator's goal is not to overcome the impasse but to help disputants analyze their situation and negotiate constructively.



MULTY-PARTY MEDIATION

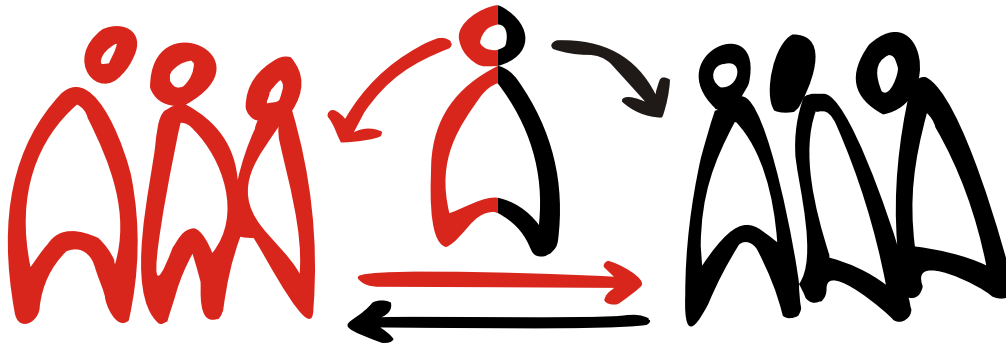
Community Change Processes

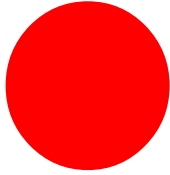
Multi-party mediation processes are not only tools for conflict management or dispute resolution, they are in fact processes for change management and capacity building, that involve, educate and empower various groups of citizens, professionals, authorities, private companies, or other key stakeholders at local, national or international level. In building a culture for democracy it is essential to engage the civic actors as well as governments and to facilitate their interaction with each other in order to achieve common goals and promote change and development.

These processes are useful in public policy conflicts, at community or international level, in socio-economic, environmental or ethnic issues.

These processes may have different steps, various length and different target groups.

In order to understand what are the common and specific characteristics, we should understand that they depend on the types of relationship groups or community members have, on the level of tension among groups or community members.





There are coherent groups and communities who have a sense of “we” and want to work together to solve common problems, through a process that is called Participatory Planning or Cooperative Planning. In coherent communities, the third neutral party is usually called “facilitator”. It is probable to have disputes and conflicts during the process because of differences in interest, needs, priorities and values, or simply because of the complexity of group processes. This is why the facilitator often plays a Mediator's role.

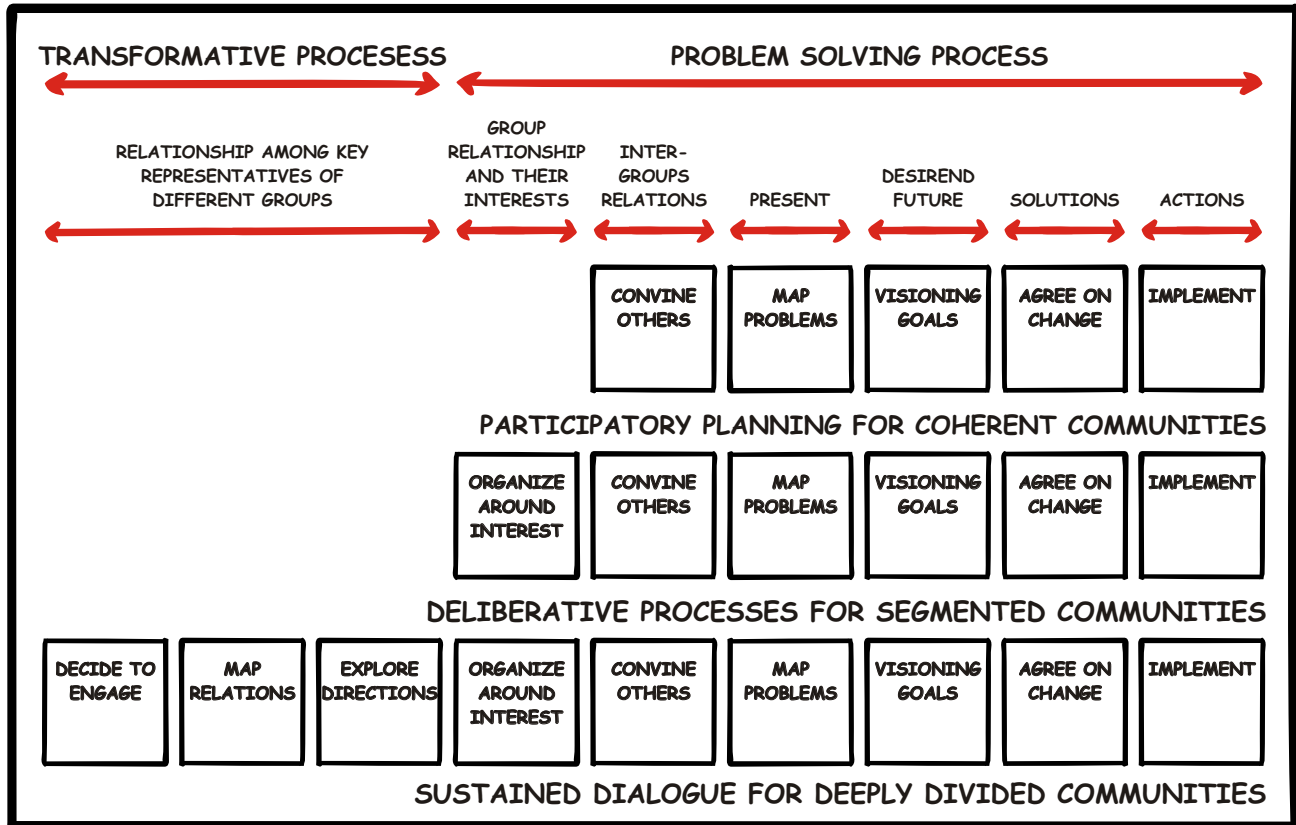


There are communities and groups segmented by conflicting interests or goals, that need to come together. In segmented communities, specific population groups are able to come together, but do not have a clear understanding of their interests and needs. In this case, the goal of the process is first to organize the groups around common interests and objectives and make them cohesive on their issues. Once the specific groups defined their common objectives, it is time to bring them together and initiate a new process that includes multiple stakeholders. From this point forward, the process is similar to the process that takes place in coherent communities. This process is called Deliberative Process.



There are communities and groups deeply divided by conflicts, many of them alongside ethnic borderlines. The difficult aspect is that there is no sense of a “common community”. In this case the process should start by changing the relationships among groups and people. Many times it is a citizen-to-citizen process that does not involve government leaders. If this goal is achieved and relations are build so that groups and people recognize each other as human beings with legitimate needs, the next step could be to encourage and help them to address the substantive issues. This process is called Sustained Dialogue.

COMMUNITY CHANGE PROCESSES



As you see in the diagram above, supplementary steps need to be taken in the Segmented and Deeply Divided communities in order to make them work together as coherent communities in Participatory Planning Processes. The more divided a community, the longer the process and the longer the time needed to be devoted to building and improving relationships, before focusing on substantive issues.

There is no success recipe, the process design should be flexible in order to fit the specific situation.

What happens at each step?

The process in Deeply Divided communities being the most complex, let's see what happens in each of the proposed steps:

Decide to engage

This is the first step in building a relationship among key representatives of the parties in conflict.

The mediator should work with the party that first took the initiative to engage in dialogue.

Map the Relationships Together

During this stage the participants need to continue the dialogue and, with the help of the mediator, they should:

- Learn how to talk analytically and not positionally, based on the ground rules such as those concerning time limits for comments, refraining from speechmaking, mutual promises for respect and civility. The mediator will help them move from positions to underlying interests.
- Learn to talk about their relationships, by diagnosing the state of the relationships, "mapping" the field of problems, irritants, habits, misunderstandings, conflicts and opportunities..

Transition - the group is ready to go further when the mediator observes that the group:

- has a general image about their relationship its strengths and deficiencies,
- understood where interests converge and diverge,
- identified the blockages toward an improved relationship

Explore direction

The parties need to continue the sustained dialogue across a series of meetings and develop a list of problems, interests and concerns that describe their relationship.

At this stage, the group is imagining a constructive relationship that would serve both sides interests. With the help of the mediator, the group will experience an example of joint problem solving to demonstrate how a positive working relationship between disputants can help achieve disputants' interests and needs.

They will work to develop ways the desired changes in their relationships might unfold in a series of reciprocal interactive steps, based on their mutual understanding of each other's interests and concerns

Organize around interests

In **Sustained Dialogue**, after developing scenarios for positive relationship change, the key representatives of each groups, are responsible for bringing the message about possible change within their group and educating them about what they have learnt.

In **Deliberative Processes** this could be the initial step when specific community groups having similar interests and needs are brought together to discuss and agree about their priority problems. The **Mediator** role is to facilitate group communication and group decision but also to build the team spirit.

Convene others

In **Sustained Dialogue**, if the previous steps were successful, it is time to experience relationship together at a broader scale. It is time to build inter-group relationship, among a larger group of representatives of the opposite groups, which are already prepared because they have been involved in previous meetings with their key representatives, who "advocate" for the benefit of this process and advantages of possible change.

This could be a citizen-to-citizen process or they could sit together and re-build the level of understanding and trust which has been achieved among the initial group of key representatives.

In **Deliberative Processes**, this step is devoted to learning about each other's issues, needs, and fears, and to build awareness and think in term of "what we can do". The focus of this step is to make community more cohesive on its issues.

With a **coherent community**, this step is the initial meeting of the planning team, when they plan the process and figure-out who else should be involved in order to be able to better define the key problems, to identify the most appropriate solutions to solve the problems, but also to be successful in the implementation stage. When building the stakeholder map in a coherent community, the planning team should also identify, with the help of the facilitator, the possible opponents during the participatory process. They should be involved as early as possible in the decision-making process, in order to change their behaviors or to diminish their resistance.

Map the present situation

If sustained dialogue and deliberative process were successful in the previous steps, meaning that participants are able to listen to each other and to interact with each other, this is the time when groups could start to think in terms of problem-solving.

The expected result is that participants build a common understanding on where they are, identifying problems and opportunities.

Starting from this stage of the process the mediator will act more as a facilitator, and should use his/her knowledge and skills in managing constructively the differences in perceptions, approaches or values.

Visioning

At this step, the participants, working together, define where they want to be in the future, and agree on common goals.

Sometimes it is healthier to have this step before discussing the problems, especially if the group is tired because of conflicts and unfavorable situations.

Agree on change

At this step participants should define solutions: How to go there? How to achieve the agreed objectives?

At this stage the third neutral person should facilitate the series of group negotiations, and focus participants' attention on exploring constructively their differences.

In segmented and deeply divided communities, the facilitator / mediator should be aware that starting with small steps and not very complex programs can be a better way for building trust among community members.

Implementation

In order to facilitate the implementation, participants should develop together an implementation plan. Clarifying roles and responsibilities in implementation, monitoring and evaluation of the agreed actions, is an effective way to diminish the risk of misunderstandings and future conflicts.

Mediator Role in Multi- Party Mediation

In a Multi-party Mediation, the mediator has the following additional responsibilities: ²

Deciding who should be at the table

The questions to be answered in planning a multi-party mediation are:

Will all the necessary parties be present at the mediation?

It is important for the mediator to not only identify which groups should be represented but also to help groups choose an appropriate representative to actually participate in the discussions. In thinking about which group should participate, it is important to identify those who could potentially block the implementation of an agreement.

Does each party have decision-making authority or quick access to it?

Sometimes a party sends, as a negotiation tactic, a representative who does not really have the authority to decide. This situation may be clear for the mediator.

Checking if each party willingly participates in the mediation

Mediation is a voluntary process. If parties are not willingly there, the mediator is less likely to help them reach an agreement. The mediator should meet separately with each group of representatives and as many of their constituents, before starting the mediation. It is an opportunity to educate them about the mediation process and to find out if there are differences of opinion within each group.

Checking if each party see the mediator as truly neutral

During the meetings with each group the mediator may find out if all parties to the dispute feel that he/she would deal fairly

Being aware of coalitions

During multi-party mediation it is possible that groups will form coalitions, which agree to support each other's positions. Sometimes this can be an asset for the mediator, because coalitions can assist in easily identifying options that will result in an agreement.

2. Eileen Babbitt, Paula Gutlove, Lynne Jones, Handbook of Basic Conflict Resolution Skills, 1994, The Balkans Peace Project

WHAT DOES IT MEAN “SUCCESSSES” IN MEDIATION

Similarities Between Two Party and Multi Party Mediation

There are some differences between two-party mediation and multi-party mediation, but both processes have similarities. The Mediator's goal is to break down stereotypes and help parties explore their feelings about the conflict and each other, to build up mutual understanding of their concerns, needs and fears of the other side, and finally to build trust between the members of opposing groups. Sometimes the goal could be less ambitious: simply to have improved interpersonal relationship and more understanding at least between individuals, if not between the group as a whole!

Even if the parties do not fully resolve their dispute, other important outcomes often occur.

What is “Success”

We may say we had a succesful Mediation when the following happened:

- Information was exchanged and hostility was defused, together with mistaken impressions and prejudices
- Communication was improved
- Issues and facts in dispute were defined
- An effective negotiation process was modeled/faciltated
- Partial resolution of issues in dispute were reached
- The parties were in a position to conduct productive negotiations at a later stage.
- The parties had the opportunity to express their interests
- The parties had the opportunity to hear what the other has to say.

By reading this Handbook we hope that you have understood that

- **Mediation** is a complex process and the role of Mediator is a difficult one
- **Mediation** skills can be acquired only through practice, learning by doing, learning from one's successes and mistakes.





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