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Trainer's Manual on Conflict Resolution: A Foundation Course

Understanding, Negotiating and Mediating Conflicts



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The Centre for Humanitarian Dialogue (HD) is a private diplomacy organisation founded on the principles of humanity, impartiality, and independence. Its mission is to help prevent, mitigate and resolve armed conflict through dialogue and mediation.

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Table of Contents

Introduction	4
Background	5
Goal	6
Audience	6
General Objectives	7
Equipment and Materials	8
Room Set-up	8
Training Process	9
Overview of the Daily Objectives	10
Training Material	11
<i>Module 1 Understanding Conflict</i>	13
<i>Module 2 Negotiating a Conflict</i>	65
<i>Module 3 Mediating Conflicts</i>	111
Annexes	223
Bibliography	263



Last year we celebrated 25 years of the European Union (EU) in the Philippines.

Since the official inauguration of the EU Delegation in May 1991, the European Union has been sharing its values and experiences with the country. I like to think that the EU itself is a product of negotiations and conflict mediations, a peace project that has brought long-awaited reconciliation and prosperity to Europe and has created a European way of conflict resolution.

The fact that the EU is funding this manual on conflict resolution for practitioners in the Philippines (and hopefully other parts of the world) is part of the “sharing” we are continuously promoting.

Over the last years, the EU has been rising as a development partner, becoming one of the main development actors for the Philippines, and also having become a reliable and impartial partner in the support of the Mindanao Peace Process.

Starting in 2009, the EU has directly and incrementally participated in and has supported the MILF-GPH peace process and we have closely followed both the Government of the Philippines and the Moro Islamic Liberation Front in their “Journey to Bangsamoro”.

The EU is currently one of the biggest foreign donors to provide aid to Mindanao and it does so through a comprehensive approach

supporting directly the MILF-GPH Peace process with an ad hoc funding through its Instrument contributing to Stability and Peace (IcSP) and supporting longer term development through our Development Cooperation Instrument (DCI).

Currently a 214 million-Peso programme is in place to support peace in Mindanao. The support to this valuable publication confirms our commitment to continue on this path.

The fact that this manual is for trainers has a special significance to me: we are investing in sustainability as peace needs to be nurtured continuously. I hope that this manual will bolster and encourage more people who are similarly committed to achieving peace through dialogue and mediation to become Peace Champions and promote a culture of peace and peaceful conflict resolution not only in the Philippines but anywhere in the world.

Mediation is both a science and an art, and requires skilled analysis, careful planning and effective communication. No one is better placed than the Centre for Humanitarian Dialogue to offer a more effective approach to conflict resolution and to engage in mediation.

A handwritten signature in black ink, appearing to read "F. JesSEN".

FRANZ JESSEN

Ambassador
Head of Delegation
European Union to the Philippines



One of the primary differences between a state of peace and a state of conflict is the existence of dialogue. Dialogue and mediation are at the heart of the work of the Centre for Humanitarian Dialogue (HD). As a private diplomacy organisation, HD is founded on the principles of humanity, impartiality and independence. These principles have always guided our work in the Philippines and elsewhere in the world, whether in providing technical advice in high-level peace talks or in supporting the mediation of local clan conflicts.

I wish to express my immense gratitude to the Delegation of the European Union in the Philippines for its invaluable support to our work in the peace process in the Philippines. This Trainer’s Manual, and the subsequent workshops we conducted with inspiring women and youth in Muslim Mindanao, would not have been possible without the European Union’s trust and confidence in our vision of attaining peace in the Philippines. I also wish to thank Atty. Ma. Araceli B. Habaradas for her efforts in helping HD bring the basic practice of mediation to our workshops in Mindanao. Your insights and input served as the foundation of this Manual.

Lastly, I wish to thank all the participants in our workshops. Your contributions guided us in developing this publication and have helped ensure that this Manual is now well-suited to guide and inspire more people who are similarly committed to achieving peace through dialogue and mediation, not only in the Philippines but anywhere in the world.

Dear readers and future trainers, it is a privilege to present to you HD’s first basic ‘Trainer’s Manual on Conflict Resolution: A Foundation Course on Understanding, Negotiating and Mediating Conflicts’. I hope that this Manual will bring mediation closer to you and your communities. In producing it, we thought to make the techniques of mediation less intimidating and contribute to some extent to the development of your basic knowledge and skills. We hope this publication will contribute to making mediation your first choice in your pursuit of peace.

SUZANNE ELISABETH DAMMAN
Country Representative
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Introduction

Conflict exists, across the globe, on varying scales and orders of magnitude. Though each case of conflict may have a unique character, they essentially share a commonality – all come at a cost. Generating fear and uncertainty, conflicts disrupt the normalcy and quality of life; affecting livelihoods, destroying homes, causing displacements, inflicting injuries and taking lives. These unwelcome outcomes are a pressing concern for all, including those in government as well as the broad community of civil society actors and development institutions. There is a great need to be able to find ways to address these concerns and issues.

Independent mediation organisations, such as HD, are committed to trying to address armed conflicts through mediation. Over time, mediation or third party mediation is gradually being recognized as an effective means of resolving conflicts between warring parties. More and more state and non-state actors are exploring and engaging in mediation activities in an effort to attain peaceful solutions to conflicts.

Mediation is consciously evolving as a discipline and is increasingly becoming an active part of the peacemaking and peacebuilding profession. Building on this momentum, HD hopes to contribute to advancing mediation further by continuing to engage as a third party facilitator for parties in various peace processes around the globe and promoting mediation as a viable conflict resolution tool which can be used by individuals and communities affected by conflict – who will find it useful and even necessary.

In order to support the promotion of mediation as a feasible alternative method of resolving conflicts for communities and individuals, HD recognizes the importance of building local capacity for using mediation to address conflicts. One way of contributing to that is through knowledge-sharing – by producing useful and practical materials which can provide basic information about understanding, negotiating and mediating conflicts to supplement local knowledge and contextual familiarity. In this case, the material takes the format of a training manual that will guide trainers in spreading knowledge and skills to their communities through a training course.

Background

HD is one of the world's leading organisations in the field of conflict mediation. The organisation has been helping to prevent, mitigate and resolve armed conflict through mediation since 1999. The organisation has its headquarters in Geneva, Switzerland and has developed a broad programme of work in Asia, Africa and the Middle East. With a wealth of experience and expertise, HD continues to find ways to promote, and build local capacity for, conflict mediation.

“Conflict Resolution: A Foundation Course - Understanding, Negotiating and Mediating Conflicts” was first organised by HD’s team in the Philippines in its Manila office in May 2016. It aimed to give HD staff and the organisation’s partners a basic understanding of conflict, and to equip them with conflict negotiation and mediation skills. The three-day training course was well received and received positive feedback from the participants. The training course has since been replicated in Mindanao in the southern Philippines. As it has had a favourable reception and shows promising potential, HD hopes to enable the training course to be carried out in many more areas, reaching a wider audience.

In an effort to ensure that this type of training course can be carried out elsewhere, all of the essential components and features of the course have been captured in this manual so they can readily be utilized and shared. As it is now readily accessible, the manual can provide future trainers with a useful set of guidelines for facilitating the training course.

The manual originated from an internal workshop and largely utilizes the structure developed by HD consultant and training facilitator, Atty. Ma. Araceli B. Habaradas. The manual is essentially derived from the slides and corresponding notes she used which incorporate her expertise and knowledge; as well as key reference materials. The references used in this manual are cited and referenced attributing credit to the respective authors and owners.

Goal

The goal of this training manual is to provide trainers with a guide for facilitating a foundation course on conflict resolution for participants in order to increase local mediation capacity.

Audience

The audiences for this training manual are a) the trainer – as the direct user, and b) the participants – as recipients of the course.

A. The Trainer

The role of the trainer is to facilitate the course as guided by the manual.

The trainer/s¹ chosen for this course may be recruited by different methods and selection processes. The trainer/s may be hand-picked based on preferences and sound judgment of their proven capabilities as a trainer, or they could be selected competitively from among other potential candidates. In the future, HD hopes that as more training courses are undertaken, trainers will inevitably come from the pool of people who have participated in the course – who have gained confidence, experience and are prepared to take on the role.

B. The Participants

It is recommended that the preliminary selection of participants for the course is carried out with the aid of questionnaires². Not only will this help the facilitator/s and organisers identify their key target audience, it will also provide useful information about their experience of conflict. This will allow the trainer/s to adjust the course and incorporate elements into it in an attempt to make it more relatable and relevant for the participants.

¹ An individual trainer or a group of trainers can be chosen to facilitate the course depending on preference and circumstances.

² A template Questionnaire for Participants can be found in the Annexes.

The range of participants could be broad or specific depending on the focus of the course. Training groups can be focused on specific categories such as young people, women, community elders, civil society actors and many more. Groups can also be comprised of a mix of categories. A well-balanced group is desirable; as an example, a group comprising both young people and community elders could lead the younger people to be timid in the presence of their older counterparts, or it could lead to a livelier workshop where the older group gets to share valuable wisdom and experience. The organisers and facilitators of the course should consider the context and such dynamics when deciding on the composition of the training group.

The number of participants should ideally be divisible by three for the purposes of the simulation exercises, which largely require three individuals per exercise. The total number of participants can range anywhere from twelve to thirty depending on the amount of resources available. There is no fixed formula for the number of participants, but it is important that the group size must be manageable for the trainer/s.

General Objectives

The trainer should be able to:

- Facilitate the three-module course outlined in the manual.
- Manage time effectively, ensuring the completion of each module.
- Ensure the quality of the training course by transmitting essential knowledge and skills by the best means possible.
- Encourage active involvement from the participants to create an interactive and engaging atmosphere.

After the course, the participants should have:

- An appreciation, and a new understanding, of the mediation process.
- An improved understanding, of the fundamental elements of conflict resolution.
- Familiarity with the concept of, and tools for, negotiating and mediating conflicts.

- Gained experience of the role of a mediator through simulation exercises.
- A better grasp of the practical application of the course.
- New confidence in managing conflict situations using the knowledge they have gained.

Equipment & Materials

- Name tags
- Projector
- Laptop/computer
- Markers
- Whiteboard/Blackboard
(if not available, use large pieces of paper)
- Sticky notes
- Printouts of the slide presentation and exercises
- Notebooks
- Pens/pencils
- Attendance sheet
- Evaluation Forms
- Certificates of Attendance/
Certificates of Completion

Room Set-up

- The room should be spacious enough to accommodate the number of participants.
- Alongside the main room, there should also be rooms/spaces available for activities which require group breakout sessions.
- The rooms should have a sufficient number of chairs, tables as required and must also have a projection screen for slide presentations.
- There should be somewhere to set out any snacks and drinks which are being provided, such as a refreshment table.
- The room should have a registration table for larger groups.
- Ensure it is easy to hear in all areas of the venue. Use microphones if needed, and make sure that the venue is in a quiet location.

Training Process

A timeline has been developed for planning and organising the training course to clarify what needs to be accomplished to prepare for it:

1. The location and venue, as well as the type and target number of participants, are planned and arranged.
2. The trainer/s is/are identified and selected.
3. A preliminary selection process for participants is conducted by sending out questionnaires. The completed questionnaires have also been collected in order to allow the trainer/s to modify the course to make it more relevant to the target audience.
4. Participants are selected for the training course.
5. Logistics and administrative activities are undertaken – such as arranging transportation and accommodation as well as sending out invitation letters and other necessary documents to the participants.
6. The three-day course takes place.
7. Evaluation Forms³ from the participants as well as observational inputs are reviewed to evaluate and assess the effectiveness of the course.
8. Points for improvement and lessons learned are noted to improve the next course/s.

NOTES

The steps outlined in the training process are general suggestions. The chronological order and the number of steps may vary. The process is flexible so it can accommodate and include other steps depending on the trainer, the participants, and the available resources as well as other constraints and circumstances.

³ A template Evaluation Form can be found in the Annexes.

Overview of the Daily Objectives

This table brings together all the daily objectives from the three-day course. Keep in mind that this is a suggested flow and it can be modified to match your designated timeframe.

Day 1	<ol style="list-style-type: none"> 1. To provide participants with knowledge about conflict which can serve as their framework for learning conflict management techniques such as negotiation and mediation. 2. To create an opportunity for participants to: <ul style="list-style-type: none"> • Explore their personal attitudes to conflict. • Recognize their own approach/es in dealing with conflict; and be aware of how these attitudes and this approach/these approaches may have an impact on their effectiveness when handling their own and others' conflicts.
Day 2	<ol style="list-style-type: none"> 1. To develop confidence among the participants in relation to constructively engaging in addressing conflict as a negotiator by: <ul style="list-style-type: none"> • Introducing basic negotiation concepts. • Providing selected tools and strategies that may aid in negotiating conflicts. • Developing communication skills and strategies for use when addressing a conflict. • Suggesting a framework for preparing for, and navigating, a negotiation process. 2. To provide an opportunity for participants to recognize challenges in a negotiation process and be aware of techniques for dealing with these challenges. 3. To increase the participants' awareness of the benefits and limitations of commonly-used negotiation strategies.
Day 3	<ol style="list-style-type: none"> 1. To deepen the participants' appreciation of mediation as a method of resolving conflict by highlighting: <ul style="list-style-type: none"> • The significance of a mediator's role in successfully resolving a conflict. • Gains that may be achieved in a well-managed mediation process. • The core values behind mediation as a method for resolving disputes. 2. To provide an opportunity for participants to identify how negotiation skills can be applied to the mediation of conflicts. 3. To develop confidence among the participants in relation to effectively mediating between parties in conflict by: <ul style="list-style-type: none"> • Providing tools and strategies for effectively managing a mediation process and generating a conducive environment for assisted negotiation. • Developing the skills which facilitate effective communication between the parties in conflict. • Suggesting a framework for handling a mediation process.

Training Material

Structure

The training material contains slide presentations with corresponding notes for the trainer/s. These notes contain instructions, descriptions, quotes and examples to help guide the facilitation of the course and ensure effective timing, organisation and transitions between modules. For the purpose of creating a more relevant and relatable course, the manual is flexible enough to accommodate modifications: this can be done by adding a personal touch to the course – such as inserting additional illustrations into slides to make them more visually appealing or the trainer/s opting to use their own examples and personally-crafted simulation exercises if they are deemed more applicable.

The training material is divided into three modules:

- Module 1 – Understanding Conflict
- Module 2 – Negotiating a Conflict
- Module 3 – Mediating Conflicts

Study and Practice Before the Course

Although the slides for each module are sequentially ordered so they will serve as a guide for the training process, it greatly helps if the trainer/s is/are well-prepared and have internalized the contents in order to keep up with the natural flow of discussion. This will reduce dependency on the manual, allowing the trainer/s to focus attention on the participants without having to constantly scan the notes. Practice and repetition can help the trainer/s gain confidence, making for a more comfortable facilitation process.

Timeframe⁴

Each module is ideally allocated a day to be completed. In its entirety, the training course will cover a period of three days. The suggested length aims to help ensure that participants are given sufficient time to absorb and retain each

⁴ The timeframe can also be formulated as a Schedule or Agenda to help keep track of time and this can also be distributed to participants. A Sample Schedule can be found in the Annexes.

module, as well as complete the simulation exercises. However, it is ultimately up to the facilitator and organisers of the training course to decide on the length and segmentation of each module in order to fit with the resources available. It should be noted that the modules are to be done in numerical succession. Completing Module 1 is a prerequisite for completing Module 2, and completing Module 2 is a prerequisite for completing Module 3.

Annexes

Aside from the three modules, the other components of the training course which are mentioned in the notes for the trainer/s can be found in the Annexes of the manual. This section contains the following:

- Six simulation exercises, two of which are additional simulation exercises
- Template Evaluation Form
- Template Questionnaire for Participants
- Conflict Recall Sheet
- Reframing Exercise and Reframing Exercise Guide
- Sample Schedule

Further Notes

As for all types of training, the content of the course must be relevant to, and understood by, all those who participate in it. Be conscious of the many factors that may hinder or improve the chances of effective learning during the course, including:

- Using the local language to increase accessibility.
- Studying the local culture or context to avoid saying or doing anything which might be considered offensive or inappropriate.
- Acknowledging and incorporating local wisdom, values and different points of view.
- Establishing a safe, comfortable and secure place for sharing personal thoughts and stories while encouraging openness.

With that, let us begin with the training course! Good luck!

Module **1**

Understanding Conflict



Understanding conflict

OBJECTIVES

1. To provide participants with knowledge about conflict which can serve as their framework for learning conflict management techniques such as negotiation and mediation.
 2. To create an opportunity for participants to:
 - Explore their personal attitudes to conflict.
 - Recognize their own approach/es in dealing with conflict; and be aware of how these attitudes and this approach/ these approaches may have an impact on their effectiveness when handling their own and others' conflicts.
- *Trainers need not mention these objectives to avoid sounding too mechanical. This is a mental note for the trainer to be aware of in the facilitation of this module.*
 - *An icebreaker activity can be a good start to enable the participants to familiarize themselves with one another and help start off the course with a light and friendly atmosphere.*



NOTES

Opening Activity: Distribute a blank 'Conflict Recall Sheet' to each participant.

- Instruct participants to recall conflicts they have encountered (or at least witnessed) personally — whether within the family, a community or an organisation. Write these conflicts on the Conflict Recall Sheet (without needing to include thorough details).
- The contents of the sheet will be kept confidential and it is not to be shared with the entire group. The Conflict Recall Sheet will serve as a reference throughout the module as the participants go through the various elements which make up a conflict.
- Instruct participants to fill out the 'Conflict Recall Sheet'. Ask them to write down two conflicts they have personally encountered.
- Trainer to regularly ask participants to refer to the Conflict Recall Sheet after every section of the module.

(SEE ANNEX – CONFLICT RECALL SHEET)

Anatomy of Conflict



“If we are to be effective
in handling conflict,
we must start with
an understanding of its nature.

Bernard Mayer,
The Dynamics of Conflict Resolution

NOTES

- Need to understand conflict first before dealing with it and attempting to resolve it effectively. Conflict is 'natural, inevitable, necessary, and normal, and that the problem is not the existence of conflict but how we handle it. ... How we view conflict will largely determine our attitude and approach to dealing with it. ... If we are to be effective in handling conflict, we must start with an understanding of its nature.'
- (*The Dynamics of Conflict Resolution: A Practitioner's Guide*, Bernard Mayer)
- How you understand conflict will guide the way you mediate or negotiate.

SLIDE
3



For you, what is CONFLICT?

NOTES

- Pose the question to the participants. Trainer can add the question: “When do you consider yourself to be in conflict?”
- Draw out three to four answers from the group.
- Trainer challenges/ processes answers by asking for examples. Trainer will process answers by focusing on the participants’ perception of when conflict really begins to occur. Slowly integrate the cognitive, behavioural and emotional dimensions of conflict into the discussion. (This is a preparatory slide for the dimensions of conflict).

SLIDE
4



When does conflict occur?



SLIDE
5

NOTES

- Before dealing with conflict, one must know when conflict occurs; preferably at the very first instance it occurs.
- There is a need to be able to identify conflict at the earliest possible point or, at least, address the root of the conflict when negotiating or mediating.

Conflict has cognitive, emotional and behavioural dimensions

NOTES

- So when does conflict occur?
- With reference to the answers of the participants, trainer advises that conflict has three dimensions: the cognitive dimension (perception), the emotional dimension (feeling), and the behavioural dimension (action).
- Every conflict must be appreciated using this three-dimensional perspective.
- Every person handling a conflict must identify in which dimension/s the conflict first manifests itself? Because in order to resolve the conflict, this needs to be clear.



PERCEPTION (cognitive)
FEELING (emotional)
ACTION (behavioural)

SLIDE
7

NOTES

- Conflict as Perception – ‘As a set of perceptions, conflict is a belief or understanding that one’s own needs, interests, wants or values are incompatible with someone else’s. This cognitive dimension has objective and subjective elements.’ (Mayer)
- [Trainer has the option to insert a slide that illustrates how conflicts can be manifested in perceptions. As an alternative, the trainer can refer to the examples given by the participants.]
- In the later part of the module (or soon after the dimensions of conflict are discussed), the trainer can emphasize the significance of resolving the conflict at the perception level if this is relevant at this stage.]
- Mayer adds the value of a cognitive resolution of the conflict: ‘When disputants change their essential view of the people with whom they are in conflict, the nature of the conflict, or the issues themselves, a long lasting and important type of resolution can occur.’

Conflict as PERCEPTION

‘...a belief or understanding that one’s own needs, interests, wants, or values are incompatible with someone else’s.’



Conflict as FEELING

‘...involves an emotional reaction to a situation or interaction that signals a disagreement of some kind.’

NOTES

- Conflict as Feeling – ‘Conflict also involves an emotional reaction to a situation or interaction that signals a disagreement of some kind. Some emotions that might be felt include fear, sadness, bitterness, anger, or hopelessness. If we experience these feelings in regard to another person or situation, we feel that we are in conflict—and therefore we are. ... Often a conflict exists because one person feels in conflict with another, even though those feelings are not reciprocated by, or even known to, the other person. The behavioral component may be

minimal, but the conflict is still real to the person experiencing the feelings.’ (Mayer)

- [Trainer has the option to insert a slide that illustrates how conflicts can be manifested in feelings. As an alternative, the trainer can refer to the examples given by the participants.
- After covering all three dimensions of conflict, the trainer can also underscore the goal of helping parties achieve an emotional resolution of their conflict.]
- As Mayer states, ‘When people no longer experience the feelings associated with a conflict, or at least not as often or at as high a level of intensity as when they were fully engaged, then an important aspect of resolution has been reached.’

NOTES

- Conflict as Action – ‘Conflict may manifest itself in actions taken to express feelings, articulate perceptions, and get needs met in a way that has the potential for interfering with someone else’s ability to get his/her needs met. This conflict behavior may be destructive or violent or may be conciliatory, constructive, and friendly. Whether the nature of the action is positive or negative, the purpose of the conflict behavior is either to express the conflict or to get one’s needs met.’ (Mayer)
- [Trainer has the option to insert a slide that illustrates how conflicts can be manifested in actions. As an alternative, the trainer can refer to the examples given by the participants.]
- This is the aspect of conflict that is commonly covered. Resolution can have ‘two aspects ... One has to do with discontinuing the conflict behavior and the other with instituting actions to promote resolution.’ (Mayer)
- Again underscore the importance of not only resolving the conflict at the level of actions but also in relation to its cognitive and emotional dimensions.

Conflict as ACTION

What we do ‘to express our feelings, articulate our perceptions, and get our needs met in a way that has a potential for interfering with someone else’s ability to get his or her needs met.’

SLIDE 10



NOTES

- Summarize the three dimensions of conflict or areas where conflict manifests itself.
- Reflection: Ask the participants to refer to their Conflict Recall Sheets to consider when the conflicts they experienced first manifested themselves? Using their personal experiences as illustrations, participants will familiarize themselves with the different dimensions of conflict and where conflicts may manifest themselves.
- Using the three dimensions of conflict as a conflict resolution tool—
 - As a mediator or negotiator, use this tool as a reminder that it is important to explore and understand the attitudes, feelings, values and beliefs of the parties in conflict.

NOTES

- Remember that the nature of the conflict in one dimension affects its nature in the other two dimensions, and none of these dimensions is static. (*Mayer*)
- When people or groups are in conflict, they are dealing with different and sometimes contradictory dynamics in these different dimensions which make people in conflict appear to behave irrationally. (*Mayer*)
- Stopping the behavioural aspect of conflict does not necessarily mean the conflict is resolved. Dealing with all dimensions of the conflict will bring more lasting solutions. (*Mayer*)

Short Exercise

• Story of Employee A and Employee B who had a conflict (shouting match, foul language etc.) because of various issues. The Supervisor instructs both to stop all acts of fighting and makes work arrangements to separate them both. With their conflict behaviour stopped, both employees perceive themselves as victimized by the Supervisor's decision. Employee A also still feels irritated each time Employee B emails him. On the other hand, Employee B has dismissed everything as nothing personal and has stopped feeling anything about it.

Conflict doesn't proceed along a simple path. It can have contradictory directions.

- Use the example of Employee A and Employee B to illustrate the contradictory dynamics between the dimensions of a conflict. The example demonstrates that stopping the behavioural aspect of a conflict does not necessarily translate into a lasting resolution of it.
- Trainer can add a slide to use their own examples.



Sources of Conflict



NOTES

- After being conscious of the dimensions in which conflict manifests itself, the next things to consider are the possible reasons behind the manifestations of conflict.
- What gives rise to conflicts associated with perceptions, feelings, and/or actions? What causes conflict?

Wheel of Conflict

The Dynamics of Conflict Resolution (*Mayer*);
See also the Circle of Conflict in The Mediation
Process (*Moore*)



NOTES

- To understand the forces that affect most conflicts, a wheel of conflict can serve as a useful framework where:
 - At the centre of all conflicts are human needs.
 - And these needs are heavily affected by other forces, mainly: emotions, values, ways people communicate, the structure within which interactions take place, and history. (*Mayer*)
- 'When we understand the different forces that motivate conflict behavior, we are better able to create a more nuanced approach to dealing with/handling conflict. Sources of conflict have to be analyzed as part of comprehending and hopefully resolving conflict.' (*Mayer*)

SLIDE
14



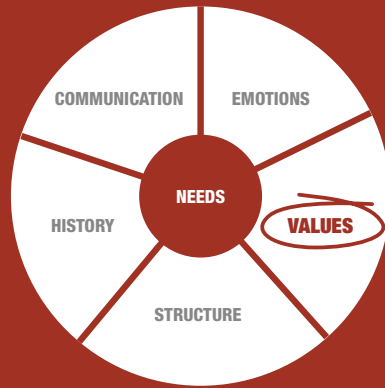
- Comprehending the context
- History of parties in conflict, of the system in which the conflict occurs, and of the issues
- Understanding the complicated systems of interaction that developed over time

NOTES

- Every conflict must be understood together with its historical context which provides the momentum for the development of conflict. The history of the parties in a conflict, of the systems in which conflict is occurring, and of the issues themselves has a powerful influence on the course of the conflict.
- People’s histories affect their values, communication style, emotional reactions, and the structure in which they operate.
- Help parties understand the complicated systems of interactions that developed over time and the degree to which the conflict itself has become part of the disputants’ identity. (*Mayer*)

NOTES

- These (Values) are the beliefs we have about what is important, what distinguishes right from wrong, and which principles should govern how we lead our lives.
- When a conflict is experienced as an issue of values, the conflict can become more charged and intractable. Because people define themselves in part by their beliefs relating to what is wrong or right, when they believe these values are under attack, they feel they are being attacked.
- It is hard for people to compromise when core beliefs are in play because they feel they are compromising themselves or their integrity. (*Mayer*)
- A person's values and beliefs about conflict often affect his/her behaviour in conflict and their concerns about the issues causing the conflict. People's views of conflict will greatly affect the way they deal with conflict and their beliefs about whether conflict can be resolved successfully.
- Recognizing when values are in play in conflict is critical to moving the conflict in a constructive direction. Provide ways for people to address values directly and express beliefs affirmatively (i.e., state what they believe in



- What a person considers important
- Belief of what is wrong or right
- People feel personally attacked when their values are attacked

and not what they are against) so they can address the conflict more constructively.

- Values can also be a source of commonality, and they can also restrain the escalation of conflict. Find shared values, especially those that support collaborative efforts.
- 'Some disputants choose to define a conflict on the basis of values. When individuals feel unsure of themselves, confused about what to do, or feel under attack, it is tempting to define an issue as a matter of right or wrong. It is easier to carry on a conflict if one can view oneself as honorable, virtuous and good.'



“When individuals feel unsure of themselves, confused about what to do, or feel under attack, it is tempting to define an issue as a matter of right or wrong. It is easier to carry on a conflict if one can view oneself as honorable, virtuous and good.

Bernard Mayer,
The Dynamics of Conflict Resolution

Have you ever been in conflict with someone who thinks he/she is wrong?

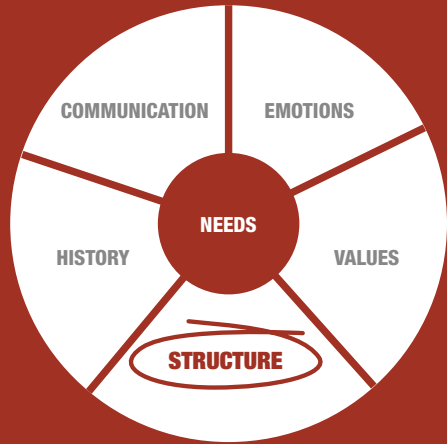
NOTES

- Reflection: Can there be a conflict in which no one is wrong? “Have you ever been in conflict with someone who thinks he is wrong?” (*The Anatomy of Peace: Resolving the Heart of Conflict*, The Arbinger Institute)
- By reflecting on these questions, participants are expected to realize that people cannot be easily defined from a good/bad or right/wrong perspective. People may be in conflict because they are standing by values and beliefs.

SLIDE
17

NOTES

- The external framework (structure) in which an interaction takes place or an issue develops. This may include available resources, decision making procedures, time constraints, communications procedures, and physical setting.
- Other structural factors that may affect conflict are proximity of disputants, access to information, legal parameters, organisational structure, and political pressures.
- Even if compatible interests point to encouraging cooperation, the structure may still promote conflict. [Example: Limited resources and a poor economy may constrain managers to reject the granting of bonuses to employees who performed very well the previous year].
- Create opportunities for parties to recognize and acknowledge the structural factors that affect the conflict.
- Discuss if some structural realities can be changed through a conflict resolution process.
- The conflict resolution process can also create a space for the parties to accept the structural elements that are unlikely to be changed.



- External framework in which an issue develops
- Examples: available resources, decision making procedures, time constraints, communications procedures, and physical setting



NOTES



- Fuel conflict
- Sometimes, control behaviour
- Result from particular circumstances and interactions and from previous experiences

- This (emotion) is the energy that fuels conflict. Emotions can, at times, control behaviour. But they can also be a source of power (strength, courage, perseverance) for parties in conflict.
- Emotions are generated both by particular circumstances and interactions and by previous experiences. [Example: Somebody raises their voice to me and I may be reacting to (a) the context and meaning of that particular behaviour; and/or (b) all the times in the past when somebody raised their voice to me.]
- In addressing conflict, it is often necessary to work specifically on the emotional content of disputants' experiences. This usually requires creating opportunities to (a) express and release emotions, and (b) experience someone else's understanding and empathy.
- Direct expression of emotions is not necessary. For some, discussing feelings without demonstrating them will suffice to create a safe environment to let emotions out in safe increments.
- While fueling conflict, emotions are also key to de-escalating it. Emotions can prevent, moderate or control conflict. It is a matter of finding an adequate way to deal with the emotions of all parties.

NOTES

- Humans are imperfect communicators and this imperfection generates conflict.
- It is even harder for individuals to communicate about complex matters, particularly under emotionally difficult circumstances.
- Conflict often escalates because people assume that they have communicated accurately when they have not.
- Many factors contribute to communication problems: culture, gender, age, class, environment.
- In communicating people rely on inaccurate or incomplete perceptions, formed stereotypes, and conclusions drawn from former interactions or experiences. (*Mayer*)
- In attempting to negotiate or mediate a conflict, space must be created for the disputants to communicate more effectively and clarify previous failures in communication.
- Parties in conflict – ideally aided by the mediator – must endeavour to listen more carefully to, and consequently understand, each other.



- Often done imperfectly especially under difficult circumstances
- Might rely on inaccurate perceptions, stereotyping, false conclusions
- Contributing factors: age, gender, culture, class

SLIDE
20



SLIDE 21

NOTES

- Recap what has been covered so far: First, understand the dimensions of the conflict and the ways in which it might manifest itself. Then, dig deeper and discover the factors that may have led to the conflict (as perceived by the parties).

At the core of conflict: NEEDS

NOTES

- It is not enough to identify the factors that have given rise to (or aggravated) the conflict. To be able to arrive at a more meaningful understanding, and resolution, of the conflict, the conflicting parties must be able to identify the underlying needs and concerns of each party which made them think/feel/act a certain way. This is essentially about discovering the root of a person's perceptions, feelings, and/or behaviour in relation to a conflict.
- At the centre of every conflict are human needs and one authority suggests a range/continuum of needs from which we can identify the interests of the parties in conflict.



NOTES

- A core skill for a negotiator/ facilitator/mediator is the ability to identify the needs and interests of the parties.
- The mediator or third party facilitator helps the disputants engage in a productive interaction and assists them in making a decision while the negotiator is person who is directly involved in the conflict. [This is further discussed in slide 49 on page 62]
- Key technique in identifying and discovering these interests: direct questioning (asking “why?” or “why not?”; “why does it matter...?”)
- Additional technique is by testing (listening and giving feedback). [Example: “Do I understand you correctly that it seems your key interest is addressing your financial security?” More on this skill in Module 3.]

SURVIVAL NEEDS	INTERESTS	IDENTITY-BASED NEEDS
food	substantive	meaning
shelter	procedural	community
health	psychological	intimacy
security		autonomy

The Dynamics of Conflict Resolution (*Mayer*);
See also the Circle of Conflict in The Mediation Process (*Moore*)

NOTES

- This is an overview slide to show the range of needs a person can possibly have.
- Trainer will illustrate and explain each item in the continuum using conflict situations – preferably with reference to the conflicts previously mentioned by the participants.
- Optional exercise at the end: Case studies and/or examples can be given out and participants can be challenged to identify the needs and interests of the parties involved in a conflict.



SURVIVAL NEEDS	INTERESTS	IDENTITY-BASED NEEDS
food shelter health security	substantive procedural psychological	meaning community intimacy autonomy

NOTES

- Food, shelter, health, security - these four are basically self-explanatory. People are driven to act – or not act – in certain ways because of their economic and security needs. [Example: A person is in conflict with a work colleague because s/he feels that his or her promotion is at risk. Why the desire for promotion? Because it may address the person’s economic and security needs.]

SURVIVAL NEEDS	INTERESTS	IDENTITY-BASED NEEDS
food shelter health security	substantive procedural psychological	meaning community intimacy autonomy

NOTES

- Needs could be seen from the perspective of substantive, procedural or psychological interests. These are the needs that motivate the bulk of people's actions.
- Substantive interests - concerns about tangible benefits; Procedural - concerns about the process for interacting, communicating or decision-making; Psychological - concerns about how a person is treated, respected or acknowledged. (*Mayer*)
- It is up to the person assisting the resolution of a dispute to assess the depth or level to which these interests will be considered.



SURVIVAL NEEDS

INTERESTS

IDENTITY-BASED NEEDS

food
shelter
health
security

substantive
procedural
psychological

meaning
community
intimacy
autonomy

NOTES

- Identity-based needs relate to a person's need to preserve a sense of who they are and their place in the world.
- Meaning – these needs relate to a person's purpose for life. People have a need for meaning in their lives and this need for meaning motivates their actions.
- Community – these needs relate to aspects of a person's identity which are derived from feeling connected with groups with which they can identify and in which they feel recognized. [Example: When people are in conflict in order to solidify a

sense of community or to protect their community against the forces of disintegration, they are, in part, struggling to preserve their identity.]

- Intimacy – these needs involve wanting to be special, unique, and important to other people. Most intimacy needs are met in family and friendship structures.
- Autonomy - While people need connection, they also need a sense of their independence, freedom and individuality. In relationships, people can struggle to establish connections while, at the same time, maintaining autonomy. [Example: Employees may have conflicts with their Supervisors as they may want a certain degree of freedom and control in doing their jobs while, at the same time, seeking the approval of the Supervisor.]



SURVIVAL NEEDS	food shelter health security
INTERESTS	substantive procedural psychological
IDENTITY-BASED NEEDS	meaning community intimacy autonomy

Identifying needs and interests.

SLIDE
28

NOTES

- In dealing with conflict, use this as a reference guide to remember both the sources of conflict and the underlying interests. Using this as a tool will help to guide the negotiator and mediator in dissecting a conflict at hand.



conflict escalation



conflict de-escalation?



**source/s
of conflict**

- communication
- values
- emotions
- history
- structure
- needs
- interests

**manifestation/s
of conflict**

- conflict as feeling
- conflict as thought
- conflict as action

**conflict
resolution**



NOTES

- Start by recapping the dimensions of conflict and where conflict manifests itself. Then recap the need to identify the factors that led to the manifestation of the conflict. Then recap how to identify the underlying needs and interests of the conflicting parties and the reasons for their actions.
- Use the continuum of needs as a conflict resolution tool –
 - To effectively understand the conflict, identify the nature and depth of the needs and interests of the parties which best explain a conflict. It is in the realm of interests that most conflicts can be resolved.
 - To help the parties present their concerns to each other in a constructive way and steer the discussion so the parties in dispute are able to understand each other's interests.

NOTES

- What do people in conflict want to happen?
- People in conflict differ in the way they wish their conflicts to be dealt with.
- Some people are more interested in getting to a solution to the conflict right away. But some people are more interested in sharing and expressing their feelings than getting results.
- There are consequently two aspects to resolving a conflict: the expression of it and the outcome of it.
- ‘Often (although not always) people must find a means of dealing with the expressive aspect of conflict – sometimes directly in the conflict interaction, sometimes elsewhere – before they can effectively focus on an outcome that will adequately address their needs.’ (*Mayer*)

Aspects of conflict

EXPRESSION

OUTCOME

SLIDE
30



EXPRESSION

- Need to deal with anger, hurt, tension, frustration, sadness, fear etc. that a person in conflict may be feeling
- Requires listening, ventilation, acknowledgment, validation or some means of expressing/releasing the feelings and the energy associated with a conflict

NOTES

- Some people are not satisfied with being given only a solution to the conflict, no matter how good it is. Some people will only feel their concerns have been adequately addressed if they are given the space to deal with their anger, hurt, frustration, sadness, fear or any other feeling that arises from the conflict.
- This is the aspect of conflict that requires listening, ventilation, acknowledgment, validation or any means of expressing or releasing the feelings and energy associated with the conflict.
- The outer part of the wheel of conflict could also be viewed as relating to the matters that can be covered during the expression of the conflict.
- [Trainer is encouraged to give examples of conflict situations where a party in conflict felt some form of relief when given the opportunity to express himself/herself.]
- Participants have to develop their own personal strategies for drawing out expressions of feelings and emotions from the parties in conflict.

OUTCOME

- Concerns about arriving at a satisfactory outcome
- A solution that addresses a person's essential interests

NOTES

- This aspect of the process (outcome) involves concerns about arriving at a satisfactory outcome or solution, one that addresses people's essential interests.
- For a good number of people, what they want is to immediately find a good solution and not dwell any further on the exploration of feelings. (*Mayer*)
- When dealing with the outcome aspect of the process, one can focus on the inner part of the wheel of conflict: the needs and interests of the parties.

SLIDE
32



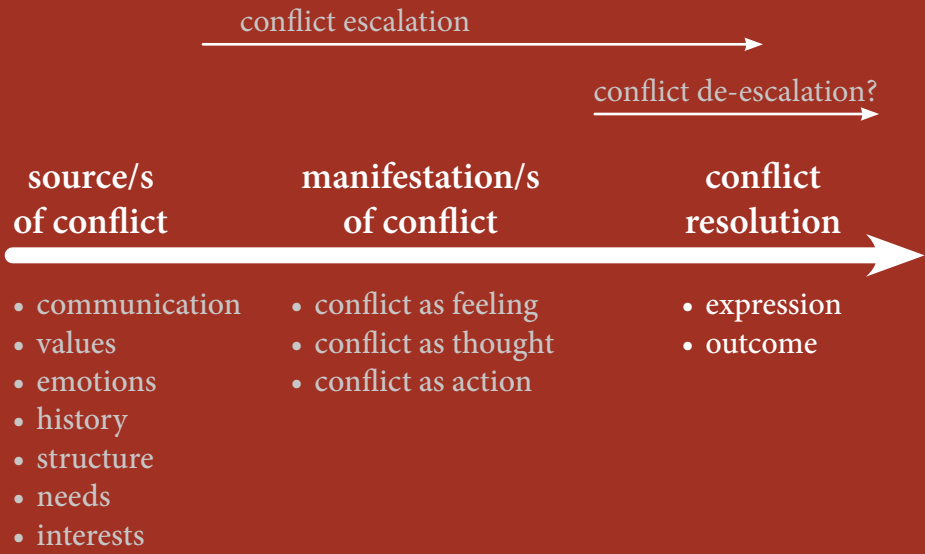
NOTES

EXPRESSION OUTCOME



For you, which
aspect is often
more important?

- Trainer to ask participants to refer to their Conflict Recall Sheet or to reflect on previous conflicts they have encountered and to discover which aspect (expression or outcome) is more important for them. Then summarize this part of the process by highlighting the value of knowing the two aspects of conflict when negotiating or mediating a conflict.
- The value of knowing the two aspects of conflict as a conflict resolution tool –
- Efforts to deal with the expressive aspect of a conflict by proposing solutions will not succeed. Similarly, efforts to address the outcome-oriented aspect of a conflict by encouraging the expression of feelings will also fail.
- The challenge is to understand what is more important to the party in conflict and how to move between the expressive and outcome-oriented aspects of a conflict as the parties move between them.
- The mediator needs to gauge how parties in conflict respond when s/he attempts to deal with each aspect and adjust their techniques accordingly.



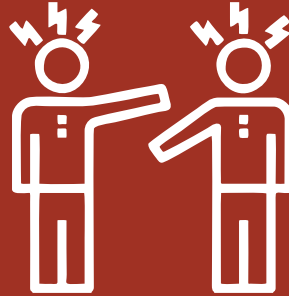
SLIDE
34

NOTES

- The repeated showing of this slide is meant to remind participants what has been covered so far, and to help them understand how all the items covered fit into one coherent picture.



People in conflict



NOTES

- There is no one-size-fits-all treatment of conflict. While it is possible to understand the anatomy of conflict, the techniques adopted to resolve it will be adjusted depending on the type of conflict behaviour exhibited by each person.
- The next set of slides will highlight the different conflict behaviours and further underscore the value of collaboration when compared to other types of conflict behaviour. Collaboration is often the underlying premise of an interest-based negotiation and mediation.

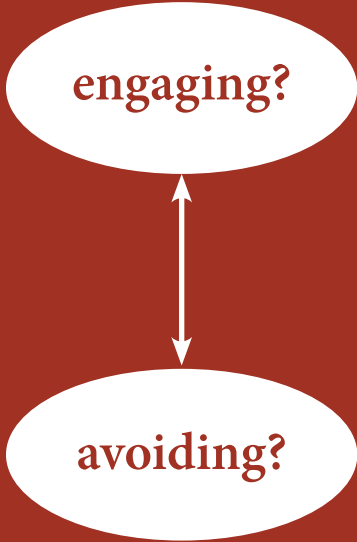
SLIDE
35

NOTES

- As a warm-up, pose the questions on the slide to the participants to determine their personal conflict behaviour.
- In this way, each participant will be eased into the idea of reflecting on conflict behaviour, including their own.
- Also ask if they are more inclined to avoid a conflict or confront it when faced with a potential conflict situation. Get feedback from participants on this question. [Another alternative is to conduct a quick group exercise by providing them with a simple conflict situation and ask them write on the board and share how they would react in such a situation.]
- At the end, highlight the fact that people behave differently when it comes to conflict.
- The behaviour of people in conflict may vary from conflict to conflict, or among different people involved in the same conflict.



**For you, is it acceptable
to be in conflict?
How should people
behave in conflict?**



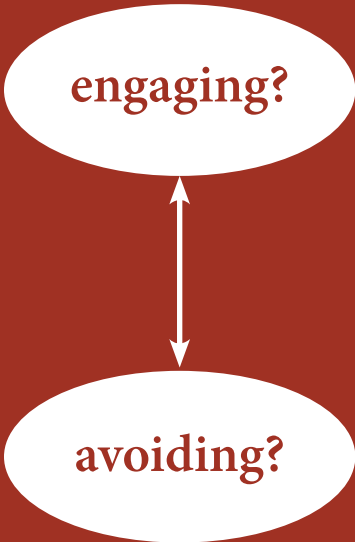
Range of conflict styles

NOTES

- Conflict styles range from behaviour that engages conflict to that which avoids or tends to avoid conflict.
- When behaving generally toward the direction of avoidance, people's efforts are focused on preventing a conflict from surfacing, denying a conflict's existence, or staying out of an existing conflict.
- When the behaviour leans more toward engagement, the person's energy is directed toward participating in conflict, asserting their needs, expressing their feelings, putting forward their ideas, and promoting particular outcomes.

(The Mediation Process: Practical Strategies for Resolving Conflict, Christopher Moore)

SLIDE
37



- Competition
- Collaboration
- Accommodation
- Compromise
- Avoidance

SLIDE
38

NOTES

• Thomas and Kilmann suggest five general strategies that people use to approach conflict. These strategies are competitive, collaborative, accommodating, compromising, or avoiding.

(Thomas-Kilmann Conflict Mode Instrument, Thomas and Kilmann)



Competition (or Direction)



- Emphasizing your own interests
- Going all out to meet your own needs
- Defending your rights
- One right solution
- Winning over losing

SLIDE
39

NOTES

- When someone approaches conflict in a competitive way, they place heavy emphasis on the meeting of their own interests.

Collaboration



- Involves efforts to solve both sets of interests
- Seeks a solution that meets all needs
- Preserves the relationship
- Educates the parties about each other's needs
- Explores a variety of solutions

SLIDE
40

NOTES

- Approaching conflict in a collaborative way involves efforts to resolve the interests of both parties in conflict.
- This is the ideal model of mediation which will be outlined in Module 3.



Accommodation



- Satisfying the interests of the other party, rather than your own interests
- Focusing on maintaining a good relationship

SLIDE
41

NOTES

- An accommodating approach involves one person focusing on satisfying the other person's interests.
- In a way, this is like avoidance – the difference in this case is that the person still engages the other, although the other's interests are given priority.

Compromise



- Paying equal attention to both parties' needs
- Directed at sharing gains and losses jointly
- Each conceding something to the other

SLIDE
42

NOTES

- Compromising involves both parties engaging but agreeing to share losses and gains jointly.
- This approach should be distinguished from collaboration. A collaborative approach involves making an effort to meet the interests of both parties without both parties necessarily losing something.



Avoidance



- Low commitment to addressing your own and the other person's interests and needs
- Ignoring the conflict
- Forgetting or dropping hard feelings
- Moving away from the situation

SLIDE 43

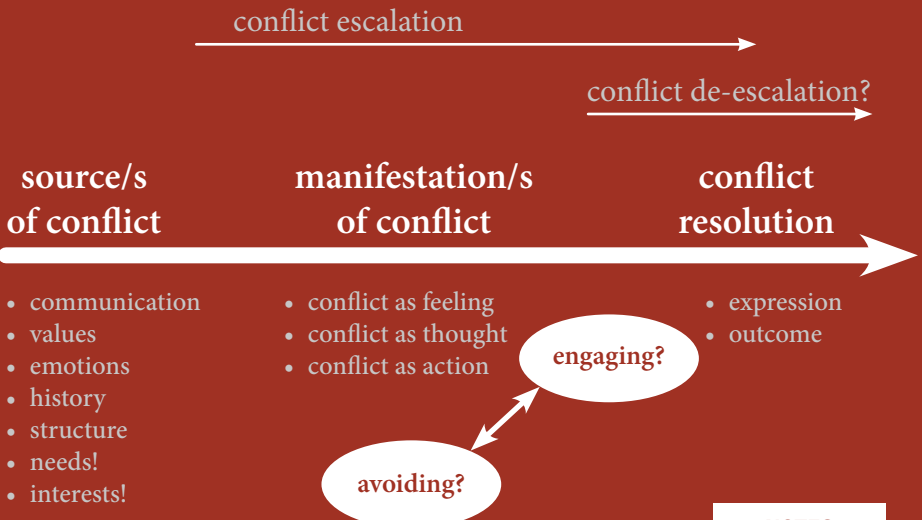
NOTES

• This strategy demonstrates a low level of commitment to addressing the interests of both the self and the other party in conflict.

NOTES

- The ideal strategy is to steer the conversation towards a collaborative environment, i.e. identifying the interests of the people in conflict, educating the parties about each other's needs, exploring various solutions.
- A person attempting to help resolve a conflict must carefully observe the conflict styles of each party so they can make interventions which ensure the interests of all parties are addressed in the course of the conversation. [Example: There is a danger that a mediation or negotiation process will become severely lopsided if one party is extremely competitive and the other party is very accommodating. The mediator must inquire deeply into the interests of both, and ensure those interests are discussed and heard by both, so a more durable solution can be achieved in the process.]
- [Optional exercise: Solicit the views of the participants on what they would do if the person with whom they are in conflict behaves in a particular way (e.g., competitively).]

Strategies in dealing with disputants can be adjusted depending on the conflict styles exhibited.



NOTES

Recap what has been learned so far:

- Starting by identifying the dimensions of conflict and where conflict manifests itself.
- Then identify the sources of the conflict, particularly the factors that may have caused the conflict.
- Then, digging deeper, identify the underlying needs and concerns of the parties which may have caused the parties to take a particular stance in a conflict.
- After that, recognise the aspects of conflict which need to be considered in the course of resolving conflicts.
- And then, identify the conflict styles of each conflicting party.

NOTES

- Trainer to ask participants to assess their own conflict style.
- If they lean more toward avoidance, how do they want to be dealt with? What approaches work for them?
- If they are more of an engager, what are their strategies for engaging in conflict?
- Activity: Using the SHORT EXERCISE (the story of Employee A and Employee B who had a conflict outlined in the notes on slide 12, page 23), divide the participants into two groups and ask each group to brainstorm how they would deal with the conflict presented to them (one group taking the perspective of Employee A and the other group taking the perspective of Employee B). Participants will be encouraged to think of all the possible ways of dealing with the other person and to write each option or course of action on a sticky note or small sheet of paper and post it on a larger sheet of paper. For example, the group focusing on Employee A's perspective may think of many options ranging from confronting Employee B, to talking behind the back of Employee B, to attacking Employee B on social media, to bringing the conflict to the attention of the Supervisor. The goal is for each group to get into

What is your conflict style?

the mind of a person in conflict and think of all the ways in which that person can engage the other. Encourage both groups to exercise creativity in exhausting all possible options there may be for actions they could take.

- This is a preliminary activity to introduce the next part on rights/power/interests.



Approaches to conflict

RIGHTS POWER INTERESTS

NOTES

- When people decide to engage in conflict, they do so using different approaches to meet their needs depending on (a) their general assumptions about conflict, and (b) the particular circumstances they are facing.

Power-based approaches

- Key message: “Do what I want because I have the power to reward you or punish you in some way.”
- These approaches are often destructive, occasionally violent, and less likely to lead to improved relations (although they are not always harmful, e.g. public protests).
- Sometimes people exercise power and demonstrate their willingness to use it before less confrontational approaches can be effective.

Rights-based approaches

- Key message: “I am right and the law requires you to do what I want.”
- These approaches involve those in conflict using the available rights-based framework to attempt to get their needs met by

asserting their rights under a law or procedure.

- These approaches are often disruptive, costly and hard on relationships.
- They focus less on what a person needs and more on what the person has the 'right' to get.

Interest-based approaches

- Involves the assertion of own needs and concerns and working toward a resolution that addresses them.
- They usually involve trying to understand and address the interests of both parties.
- Ideally the core premise behind facilitated mediation sessions.

(Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict, Brett, Ury and Goldberg)

- [Continuation of activity: Process the results of the short exercise by classifying the responses according to power, rights or interests. If there is time, trainer can ask the participants to consider the strengths and weaknesses of some of the courses of action which were suggested during the short exercise.]

SLIDE
47



The approach that may be used indicates the needs and interests of the person and how important these interests are.

NOTES

- Knowing approaches to conflict is another conflict resolution tool –
- Having an idea of the possible approaches a person may take indicates the needs and interests of the person and how important these interests are.
- The approaches available to a person in engaging in conflict (and the strength of each approach) shows the alternatives considered by him/her and his/her incentives for entering into a settlement or not. [This can be reiterated when alternatives are discussed in Module 2.]
- Always check a person’s general assumptions about the conflict and the particular circumstances faced by a person to understand why they prefer a particular conflict approach.

NOTES

- After learning about the anatomy of a conflict, we can look at the roles people can play when dealing with conflict...

Negotiator

- A person who is directly involved in a conflict who can take on the role of a negotiator, advocating that certain needs and interests are met. In a negotiation which does not involve a third party, the negotiators are the people who will endeavour to reach an agreement or decision with respect to the conflict.
- This role will be the focus of Module 2. This focuses on the basics of negotiation and will establish knowledge of this area for the module on mediation. Mediators must first know how a party in a dispute feels before they are able to effectively assist a negotiation between disputing parties.

Decision-Maker

- In cases where negotiators (parties in conflict) cannot, or do not wish to, resolve the conflict on their own, the matter may be submitted to a third party authority who will make a decision on the basis of competing advocacy

Roles played in conflict

Person in Conflict
(Negotiator)

Third Party Intervenor
(Decision making Authority)
(Mediator / Facilitator)

relating to each party. This is the traditional method of dealing with conflict (for example: courts).

Mediator/Facilitator

- The mediator or facilitator is impartial and focuses on the process of interaction between the parties in conflict rather than on the substance of the negotiations. The facilitator helps the disputants engage in a productive interaction and assists them in making a decision.
- This role will be the focus of Module 3. This deals with the role of the mediator, the mediation process and core skills needed in mediation.



A series of horizontal lines forming two columns of writing space. Each column contains 20 lines, for a total of 40 lines on the page.

Module 2

Negotiating A Conflict

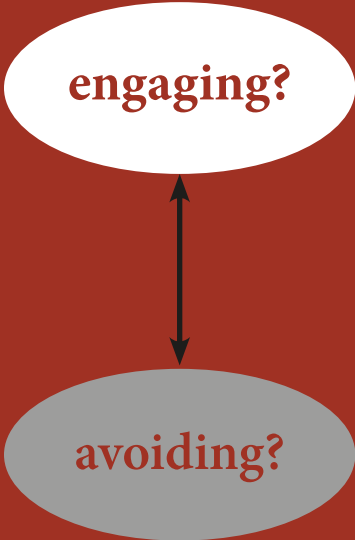


Negotiating a conflict

OBJECTIVES

1. To develop confidence in constructively engaging in a conflict as a negotiator by:
 - Introducing basic negotiation concepts.
 - Providing tools and strategies that may aid in negotiating conflicts.
 - Developing communication skills and strategies for use when engaging in addressing a conflict.
 - Suggesting a framework for preparing for, and navigating, a negotiation process.
 2. To provide an opportunity for participants to recognize challenges in a negotiation and be aware of techniques for dealing with these challenges.
 3. To increase the awareness of the participants of the benefits and limitations of commonly-used negotiation strategies.
- *Trainer does not need to mention these objectives to avoid sounding too mechanical. This is a mental note for the trainer to be aware of in the facilitation of this module.*





How do parties deal with their conflicts?

SLIDE 51

NOTES

- [Refer to notes from Module 1.]
- This slide aims to remind the participants of what they have previously learnt about conflict styles and to introduce the next module on negotiation (one method of engaging with a conflict).



If they engaged, how do parties resolve their conflicts?

Disputing parties may resolve conflicts on their own...

OR a third person may step in to help with resolving the conflict.

SLIDE
52

NOTES

- If a person chooses to engage with a conflict, that can be done through:
 1. Directly engaging the other person with whom they have a conflict; or
 2. Engaging with the other person through the intervention of a third party.

RIGHTS POWER INTERESTS

Disputing parties may resolve conflicts on their own...

OR a third person may step in to help with resolving the conflict.

NOTES

- [Refer to notes from Module 1.]
- This slide aims to remind participants of what they have previously learnt about approaches to conflict and how these approaches can affect those involved in engaging with a conflict directly or through the intervention of a third party.
- A person may use either a rights-based, power-based and/or interest-based approach when engaging with a conflict on their own or through the intervention of a third party.

SLIDE 53



RIGHTS POWER INTERESTS

Disputing parties may resolve conflict on their own...

Before a third person steps in, understand first how disputing parties do this on their own...

...and explore an ideal way to do this.

NOTES

Before participants move straight into mediation, they must first:

- Have a sense of how people in conflict think, feel and behave in a negotiation (since mediation is also a negotiation, although an assisted one).
- Have an idea of how an ideal (interest-based) negotiation flows.
- As mentioned earlier, parties in conflict may choose to resolve the conflict on their own or with the assistance of a third party. If the former option is chosen, this module (Module 2) suggests an ideal way of resolving a conflict in a negotiation situation.

Disputing parties may resolve conflict on their own...

NOTES

This exercise is intended to give the participants a better sense of how a person in conflict tends to behave in a negotiation situation.

Simulation Exercise 1

A sample exercise on separating spouses is attached in the Annexes but the trainer can opt to create a different exercise that will suit the background of the participants. In case a separate exercise is created, ensure the characters-in-conflict (who are negotiating) are both driven by various legitimate interests and are both coming from a place where they can view themselves to be in the right. Do not create an exercise that will paint a lopsided picture, where one party is a villain and the other is a hero. If the separating spouses example is used ...

Divide the participants into Group A and Group B. Group A will be given instructions for the character of Richard and Group B will be given

Often by negotiation.

What often happens in dispute settlement negotiations?

instructions for the character of Dawn.

The objective of the exercise is to give the participants a better idea of what often happens during dispute settlement negotiations (as listed on the next slide).

Suggested questions to guide the process:

What went well (or did not go well) in the negotiation?

How did it feel to negotiate with a party with whom you are in conflict?

Do you think you won? Lost?

Could the negotiation have been better?

(SEE ANNEX – SIMULATION EXERCISE 1: RICHARD & DAWN: THE SEPARATING SPOUSES)



Negotiators often...

- Attack each other personally
- Withhold information from each other
- Are suspicious of each other
- Go directly to bargaining without understanding exactly why they are taking a particular position
- Proceed with a win-lose mindset

NOTES

What often happens in negotiations?

- Negotiators attack each other personally.
- Negotiators withhold information from each other; are suspicious of each other.
- Negotiators go straight into bargaining without understanding exactly why they are taking a particular position or what their alternatives are.
- Negotiators proceed with a win-lose mindset.

Positional bargaining

SLIDE 57

NOTES

- One approach to negotiations is positional bargaining. This is where the parties' negotiation moves backwards and forwards between two chosen positions. Most of the points on the list on the previous slide are indicators of positional bargaining.
- The capacity of positional bargaining to resolve a conflict is extremely limited and it may result in finding no solution at all.



Interest-based negotiations

SLIDE
58

NOTES

- Negotiations can also be interest-based, where parties in conflict go beyond their positions and look into the underlying needs and interests of the parties in order to properly resolve the conflict.

Interest-based negotiations

a space to engage in joint
problem solving...

SLIDE
59

NOTES

- Interest-based negotiations allow space for both parties in conflict to engage in joint problem solving.



Interest-based negotiations

where parties...

- Separate the person from the problem
- Focus on interests, not positions
- Generate options
- Use objective criteria to decide
- Recognize alternatives to negotiated agreement

Negotiation behaviour and environment suggested for parties in conflict to negotiate productively

'Getting to Yes: Negotiating Agreement Without Giving In'
by Roger Fisher, William Ury and Bruce Patton

NOTES

Shifting to principled negotiation

- Suggestions for making negotiations more productive are premised on, what is known as, principled negotiation or negotiation on the merits. The use of this type of negotiation suggests the following:
 - Separating the person from the problem.
 - Focusing on interests and not positions.
 - Generating various options before deciding what to do.
 - Basing a solution on an objective standard.
 - Recognizing the alternatives to a negotiated agreement.

Separate the PERSON from the problem.

NOTES

Separating the person from the problem

- When approaching a negotiation, acknowledge that the negotiators are people and the human aspect of the negotiation can positively or negatively affect the discussion. As discussed earlier [refer to the wheel of conflict], emotions, values and communication styles (among other things), affect the way a person views and addresses a conflict. These emotions typically become entangled with the objective merits of the problem and the egos of parties become identified with their positions. (*Getting to Yes, Fisher, Patton and Ury*)

SLIDE
61



Dealing with the person first.

Avoid diving into problem solving right away.

NOTES

How can you deal with the person first?

- One way is to start by focusing on the factors that led to the conflict. [Refer to the outer part of the wheel of conflict.]
- Also, focus on the dimensions of the conflict and where the conflict manifested itself.
- To avoid this substance-relationship entanglement, it is suggested that a negotiator approach the discussion by dealing with the person separately from the problem. This can be done by:
 1. Dealing with perception
 2. Dealing with emotion
 3. Focusing on the communication

(Fisher, Patton and Ury)

SLIDE 62

PERCEPTION (cognitive)
FEELING (emotional)
ACTION (behavioural)

SLIDE
63

NOTES

Recall the dimensions of conflict. [Refer to Module 1 notes.]



When dealing with the person,
focus on:

Perception
Emotion
Communication (Action)

SLIDE
64

NOTES

This is an introductory slide.
This slide contains an outline
of the information on the slides
which follow.

On perception

NOTES

1. Dealing with perception

This relates to the earlier discussion of the dimension of conflict at the cognitive/perception level. “How does one person perceive the conflict or the problem?” It is only after one person sees the viewpoint of the other (and vice versa) that they can approach a problem more productively.

Negotiator must try to put him/herself in the shoes of the other and try to:

- See the conflict from the other side.
- Empathize with, or understand, the power of the other person’s viewpoint (note: understanding it is not the same as agreeing with it).

[Also refer to Module 1 notes.]

- Put yourself in the other’s position
- Test assumptions
- Do not blame
- Discuss each other’s perceptions



On emotion

- Recognize and understand emotions (your own and other people’s)
- Make emotions explicit and acknowledge them
- Allow the other to express their emotions
- Resist reacting to emotional outbursts

NOTES

2. Dealing with emotion

This relates to the earlier discussion on the emotional dimension of conflict. “How does the person feel about this conflict or problem?” Acknowledge the emotions first (both the other person’s and your own) before dealing with the substance of the problem. A negotiator moves closer to a mutually-acceptable agreement by first understanding the viewpoint of the other party and how the other party feels.

[Also refer to Module 1 notes.]

On communication

NOTES

3. Focusing on the communication

This partly relates to the behavioural dimension of conflict. Conflict often arises, or is aggravated, because of communication problems (e.g. people not communicating properly or not understanding each other correctly, or people misinterpreting words or actions). A negotiator is encouraged to:

- Actively listen and acknowledge what is being said [Relate to activity in Module 3 - on Active Listening].
- Communicate in manner that promotes and enhances understanding.
- Speak about yourself, not the other.

[Also refer to Module 1 notes.]

- Listen actively and acknowledge what is said
- Speak to be understood
- Speak about yourself, not the other



After dealing with the person,
face the problem.

Separate the person from
the problem.

NOTES

- After dealing with perception, emotion and communication, parties can get past accusing each other and start looking at the problem together, and trying to resolve it.
- After venting perceptions, emotions and issues connected to communication [and after dealing with the outer part of the wheel of conflict], the parties in conflict are better prepared to deal with the conflict.
- The matters raised by the parties during this initial stage will also give both of them an idea of each other's INTERESTS.

SLIDE

68

NOTES

**Interests:
Beyond positions**

- Most people enter a negotiation (or mediation) with a list of problems/issues and a list of solutions (or what they believe should happen). These initial solutions are “positions”.
- Arguing for or bargaining between positions is one way of negotiating. Before people can effectively work on solutions, they need to broaden their understanding of the situation. Having discussions that jump directly from problem to solution may not address the underlying interests of the people who are negotiating. Focusing solely on positions may prevent the parties from considering the roots of the conflict and may limit the range of possibilities available to address the real interests of disputants. Negotiating a compromise between positions is likely to produce a limited and fragile agreement.

(The Mediator's Handbook, Jennifer E. Beer with Eileen Stief)

Focus on interests, not positions.



Moving from positions to interests.

NOTES

Moving from positions to interests

By moving from positions to interests, the following can be achieved:

- Understanding the other party's viewpoint (get a sense of the interests, emotions, limitations and capabilities of the other side).
- Understanding oneself better (increase awareness of own interests, emotions, limitations and capabilities).
- Reframing of the problem (the parties do not get trapped in their own positions and are able to expand their view of the problem).

Framing the problem based on interests

Interests define the problem. After discovering their respective interests, parties can start framing (or reframing) the problem and then work together to solve it.

NOTES

- Your position is something you have decided upon. Your interests are what caused you to so decide.' (*Fisher, Patton and Ury*)

Use SIMULATION EXERCISE 1 to illustrate the difference between positions and interests. [Trainer can choose another conflict case to illustrate this difference or simply refer to the separating spouses exercise as an illustration to differentiate positions from interests]. Invite the participants to identify possible interests behind the positions in the simulation exercise. [Use only one example from the two below and reserve the other as an additional exercise to support the “discovering interests” slide (slide 77 on page 93) if time permits].

For Richard – His positions and possible corresponding interests are:

- Position: Wants a 50-50 share of time with the children | Interests: Relationship/connection with the children; Role as father.
- Position: Sell the family home | Interests: Financial concerns; Control of life; Sense of self as a good husband.
- Position: At least 50-50 split of money, preferably a bigger percentage | Interests:

Distinguishing positions from interests.

Recognition of sacrifice for family; Recognition of his roles as an ideal father and an ideal husband; Sense of security from tax authorities; Recognition of his support for Dawn's business.

- Position: Wants the separation to happen soon | Interests: His flawless reputation as a good husband, father and medical professional; Beatriz's privacy and reputation; Having a happy romantic relationship.

For Dawn – Her positions and possible corresponding interests are:

- Position: Get full custody of the children | Interests: Relationship/



connection with the children;
Role as mother.

- Position: Get a percentage of the profits earned and then a 50% share of the principal | Interests: Recognition of efforts as financial manager for the family; Recognition of sacrifices made for the family.
- Position: Richard to pay for the children's future expenses | Interests: Financial security/stability (regaining it); Career.
- Position: Keep the family home | Interests: Children's comfort (access to friends and school) and sense of stability (despite the separation); Good family memories; Financial security/stability.
- Position: Avoid a court case; Try to preserve the marriage | Interest: Preservation of her role/image as a loyal wife and good mother.

(SEE ANNEX – SIMULATION EXERCISE 1: RICHARD & DAWN: THE SEPARATING SPOUSES)

“*A position is likely to be concrete and explicit; the interests underlying it may well be unexpressed, intangible, and perhaps inconsistent.*

*‘Getting to Yes: Negotiating Agreement Without Giving In’
by Roger Fisher and William Ury*

SLIDE
72

NOTES

- ‘A position is likely to be concrete and explicit; the interests underlying it may well be unexpressed, intangible, and perhaps inconsistent.’ (*Fisher, Patton and Ury*)
- If that’s the case, how does a person discover or identify interests?

[This is an introduction to the next slide.]



INTERESTS

- Parties’ “needs, desires, concerns, and fears”; the “silent movers” behind the positions.
- The “needs that motivate the bulk of people’s actions.”
- By looking at interests instead of positions, the possibility of developing solutions improves.

*The Dynamics of Conflict Resolution: A Practitioner’s Guide by Bernard Mayer
Getting to Yes: Negotiating Agreement Without Giving In’ by Roger Fisher and William Ury*

SLIDE
73

NOTES

Explain the concept of interests again and underscore the value of identifying interests in any conflict situation.



*The most powerful interests
are basic human needs.*

*... If you can take care of such basic needs,
you increase the chance both of reaching
agreement and, if an agreement is reached,
of the other side's keeping to it.*

*'Getting to Yes: Negotiating Agreement Without Giving In'
by Roger Fisher and William Ury*

SLIDE
74

NOTES

Read through the quote and underscore the value of focusing on discovering interests and addressing the needs that are at the centre of those interests. A negotiation or mediation is not about simply making parties compromise. It is about making parties take care of the needs of each other.



**Remember
the wheel of
conflict?**

SLIDE
75

NOTES

Recall the wheel of conflict.
[Refer back to Module 1 notes.]

...And the continuum of human needs?

SURVIVAL NEEDS	food shelter health security
INTERESTS	substantive procedural psychological
IDENTITY- BASED NEEDS	meaning community intimacy autonomy

The Dynamics of Conflict Resolution (*Mayer*);
See also the Circle of Conflict in The Mediation Process (*Moore*)

SLIDE
76

NOTES

Recall the continuum of human needs. [Refer back to Module 1 notes.]



Discover INTERESTS

- Examine the position and ask “Why?”
- If you want the other party to act or agree in some way and they refuse, ask “Why not?”
- Each party can have multiple interests.

*Getting to Yes: Negotiating Agreement Without Giving in
by Roger Fisher, William Ury and Bruce Patton*

NOTES

[Refer back to some techniques in Module 1 (on identifying interests).]

Suggested questions to uncover interests:

- “Can you help me understand why that’s important?”
- “How does _____ affect you?”
- “_____ matters to you a lot – is that right?”
- “Is there something you think I do not understand about your situation?”

(Beer and Stief)

Note: Also refer to the continuum of human needs in Module 1 when attempting to identify the parties’ interests. Continue using the separating spouses (Richard-Dawn) exercise to train the participants in identifying interests behind positions.



NOTES

Cite examples where a problem is framed based on interests. Using the separating spouses exercise – at first glance, the problem SEEMS to be: whether or not to sell the house. But considering the interests of Richard and Dawn, the problems may be framed as follows:

- How to maintain easy access for the children to their friends and school? (Based on Dawn's interest in promoting the children's welfare. This is possibly one of Richard's interests too, but he may not be aware of it yet).
- How to preserve the good memories of the family? (Based on Dawn's interest in keeping her sense of connection to the family she built).
- How to deal with the hurt brought about by the alleged illicit relationship between Dawn and Antonio? (Based on Richard's interest in recovering control of his life or regaining his sense of self as a good husband).

SLIDE
78

Frame the problem based on interests.

Separate the person from the problem. Be hard on the problem, soft on the people.

Getting to Yes: Negotiating Agreement Without Giving in
by Roger Fisher, William Ury and Bruce Patton



Generate options.



NOTES

- This introduces the value of generating options when trying to deal with a conflict.
- Story: Siblings are fighting over a slice of chocolate cake. The younger brother saw the cake first in the kitchen, got a fork, and was about to cut a piece from it. The older sister arrives and also wants a piece of the cake. They fight. Their mum/dad enters the kitchen and sees the children fighting. If you were the parent, what would you do?
- Ask the participants to think of all the possible options (including the most outrageous or weird ones) for dealing with the fighting

children. Do not stop until you get at least four suggestions – you can get more. The goal is to give the group the experience of brainstorming for as many options as possible. Ask them to list all the possible solutions that instinctively come to mind as well as those that come after deeper thought. In the course of the exercise, it is likely that the participants will suggest the more obvious answers (e.g. parent slices the cake; parent scolds the children and does not let them eat the cake; parent gives the children more treats to make them stop fighting). However, you are hoping to reach the possible option of making one child slice the cake and giving the other child first choice about which slice they will have. Lesson: the best solution may not come immediately, it may come after working out all possible options.

“ *In a dispute, people usually believe that they know the right answer—their view should prevail. ... All available answers appear to lie along a straight line between their position and yours.*

Getting to Yes: Negotiating Agreement Without Giving in
by Roger Fisher, William Ury and Bruce Patton

SLIDE
80

NOTES

When facing a dispute, parties in conflict tend to overlook the need to generate options because each party is usually set on one option, the one that furthers his or her own position. ‘In a dispute, people usually believe that they know the right answer – their view should prevail. ... All available answers appear to lie along a straight line between their position and yours.’ (Fisher, Patton and Ury)



The solution is not
limited to black or
white.

There are many shades
of grey in between.
There are many
colours to create.

NOTES

- Parties in conflict tend to have a limited mindset when approaching a conflict. Usually, a party in conflict thinks that the best (or only) option is the one that mirrors his/her position in the conflict and, often, 'the only creative thinking shown is to suggest splitting the difference' between the positions of the parties in conflict. (*Fisher, Patton and Ury*)
- There will always be options other than those presented by either party.
- Once negotiating parties get past limiting positions (and options) and are able to discover the interests which lie behind each other's positions, they can proceed with discussing other possible solutions. To broaden the range of options for negotiation and to arrive at the best possible solution, parties must first generate ideas and think of creative possibilities.
- The goal in an 'ideal' negotiation situation is having a phase where all possible options are generated.

NOTES

But generating options becomes a difficult experience because of 'major obstacles that inhibit the inventing of an abundance of options'. These are '(1) premature judgment; (2) searching for the single answer; (3) the assumption of a fixed pie; and (4) thinking that "solving their problem is their problem."' [As you quickly go through each item, encourage the participants to recall conflicts they have experienced/observed before (or refer to the separating spouses exercise) and remember what happened when generating possible solutions.]

- Premature judgment - Once any possible solution enters someone's mind, they will instantly doubt it or find fault with it. 'Your creativity may be even more stifled by the presence of those on the other side.'
- Searching for the single answer - 'In most people's minds, inventing is simply not part of the negotiating process. People see their job as narrowing the gap between positions, not broadening the options available. ... Since the end product of negotiation is a single decision, they fear that free floating discussion will only delay and confuse the process.'
- Assumption of a fixed pie - Another

What limits options and possible solutions.

- Premature judgment
- Searching for a single answer
- Assumption of fixed pie
- The thinking that "solving your problem is your problem"

Getting to Yes: Negotiating Agreement Without Giving in
by Roger Fisher, William Ury and Bruce Patton

explanation 'why there may be so few good options on the table is that each side sees the situation as essentially either/or – either I get what is in dispute or you do. A negotiation often appears to be a "fixed-sum" game.'

- 'Thinking that "solving their problem is their problem" - Another obstacle to inventing options 'lies in each side's concern with only its own immediate interests. For a negotiator to reach an agreement that meets his own self-interest he needs to develop a solution which also appeals to the self-interest of the other.' (Fisher, Patton and Ury)



To generate more possibilities...

- Separate inventing from judging, deciding
- Broaden options, not look for a single answer
- Search for mutual gains
- Find ways to make decisions easy

NOTES

To create more options that can serve as points of discussion in a negotiation, it is suggested that parties in conflict:

- Separate the act of inventing options from the act of judging them.
- Broaden/expand the options on the table.
- Explore possible mutual gains.
- Create ways of making the decision easy for both parties.

Separate inventing from deciding.

Brainstorm first without judging.

NOTES

- Since judgment hinders imagination, separate the creative act from the critical one; separate the process of thinking up possible decisions from the process of selecting among them. 'Invent first, decide later... Inventing new ideas requires you to think about things that are not already in your mind. ... A brainstorming session is designed to produce as many ideas as possible to solve the problem at hand. The key ground rule is to postpone all criticism and evaluation of ideas.' (*Fisher, Patton and Ury*)
- [Relate this idea to the way the chocolate cake exercise was carried out earlier.]
- Summarize the point that a negotiator needs a broad range of options.



Diagnose the problem and invent options, jointly.

Invent options that can possibly address both parties' interests.

NOTES

- But remind the participants that before they begin the process of generating options, it is first essential to diagnose the problem correctly. And the problem can be diagnosed correctly only after the interests of each party are identified. Remember that interests define the problem.
- And once the problems are framed based on interests (not positions), the space for inventing options expands.

Using SIMULATION EXERCISE 1: generate and expand the options available to the parties. Trainer can do this with smaller groups or with all the participants generating options together. For every problem which was identified earlier, let the participants do a brainstorming session on it to generate ideas without judgment.

(SEE ANNEX – SIMULATION EXERCISE 1: RICHARD & DAWN: THE SEPARATING SPOUSES)

Interest-based negotiation is a joint problem solving process.

And solving the other party's problem is also your problem.

SLIDE
86

NOTES

- Also underscore that a negotiator must endeavour not only to solve his/her own problem but also to help generate possible options for the other party's problem. How do you convince another person to agree with you? By helping to solve his/her problem as well.
- By having the interests of both parties in mind when generating options, a culture of joint problem solving is created.



Use objective CRITERIA to decide.

(especially when settling differences is becoming tough.)

NOTES

- But there may be cases when parties may insist on choosing options that meet their own interests or when parties will experience a deadlock in choosing the best option to meet the interests of both. In this case, the conflicting parties may agree on an objective criteria that will serve as the basis for choosing the solutions.
- 'If trying to settle differences of interests on the basis of will has such high costs, the solution is to negotiate on some basis independent of the will of either side – that is, on the basis of objective criteria'.
(Fisher, Patton and Ury)

Develop objective criteria.

Fair standards, Fair procedure

NOTES

- In an interest-based negotiation, the parties may choose to develop standards that will guide their decision making process. Agreement may be based on fair standards such as market value, professional standards, precedent, or tradition.
- 'At a minimum, objective criteria need to be independent of each side's will.' (*Fisher, Patton and Ury*)
- For example, if the separating spouses experience a deadlock over who will get principal custody of a child, some possible options are: to ask the child to choose or to solicit the professional opinion of a psychologist.

Recognize ALTERNATIVES to a negotiated agreement.



SLIDE
89

NOTES

- This is an introductory slide to the following slides which cover alternatives to a negotiated agreement.

ALTERNATIVES

In case there is no agreement.

SLIDE
90

NOTES

- The strength or weakness of a negotiation stance depends heavily on the alternatives available to a negotiator in case no settlement or agreement is reached with the other party. This is what is commonly called the 'walkaway point'.



Knowing your alternatives.

And knowing the BATNA.

NOTES

A negotiator is encouraged to:

- Recognize the various alternatives available to him/her if no negotiated agreement is reached.
- Know his/her best alternative to a negotiated agreement (BATNA) and set his/her 'walkaway point'.
- Find ways to develop, or improve on, his/her BATNA.

[Note: In a mediation process, the mediator must discover the BATNA of each party in conflict in order to aid in the progress of the negotiation.]

SLIDE

91

NOTES

- ‘The reason you negotiate is to produce something better than the results you can obtain without negotiating’. Those ‘results’ are your alternatives. And the best one among those alternatives is your BATNA. *(Fisher, Patton and Ury)*
- A negotiator is encouraged to know their alternatives in case no agreement is reached. Even better, the negotiator must learn how to develop their BATNA so they are not entering the negotiation with a weak stance and are not easily made to agree to any option on the table.
- The negotiator wants to avoid the danger of being ‘too accommodating to the views of the other side – too quick to go along.’ *(Fisher, Patton and Ury)*
- ‘The better your BATNA, the greater your power. ... The relative negotiating power of two parties depends primarily upon how attractive to each is the option of not reaching agreement.’ *(Fisher, Patton and Ury)*
- You should also think about the alternatives to a negotiated agreement available to the other side. ‘They may be unduly optimistic about what they can do if no agreement is reached. ...

Best alternative to a negotiated agreement

Knowing the strength of your BATNA.

And considering the other person’s BATNA.

The more you can learn of their alternatives, the better prepared you are for negotiation. Knowing their alternatives, you can realistically estimate what you can expect from the negotiation.’ *(Fisher, Patton and Ury)*



Ideally, parties in conflict negotiate this way... But often they don't

- Separate the person from the problem
- Focus on interests, not positions
- Generate options
- Use objective criteria to decide
- Recognize alternatives to a negotiated agreement

To help conflicting parties negotiate this way...

... A mediator's role
becomes instrumental.

NOTES

At this point, recap the content of Module 2 and say that, when people in conflict negotiate, this mode of negotiating (interest-based) is encouraged because the most important needs of the people concerned are met. However, reality dictates that people in conflict may be too caught up in their own conflicts and may have difficulty engaging in such a process on their own. In these circumstances, the assistance of an impartial third party becomes very valuable to encourage parties in conflict to separate the person from the problem, to focus on interests, to generate options, to use objective criteria to decide, and to recognize alternatives to a negotiated agreement.

[As an introduction to Module 3, discuss:

- The disadvantages of conducting negotiations without the assistance of a third party.
- How a third party facilitator can make negotiations more productive.]

A page of horizontal lines for writing notes, organized into two columns. Each column contains 25 lines. The lines are evenly spaced and extend across the width of each column.

Module 3

Mediating Conflicts



Mediating conflicts

It is important that the participants remember the two previous modules as they go through the third module on mediating conflicts.

OBJECTIVES

- To deepen the participants' appreciation of mediation as a method of resolving conflict by highlighting:
- The significance of a mediator's role in successfully resolving a conflict.
- Gains that may be achieved in a well-managed mediation process.
- The core values behind mediation as a method for resolving disputes.
- To identify how negotiating skills can be applied to the mediation of conflicts.
- To develop confidence among the participants in relation to effectively mediating between parties in conflict by:
- Providing tools and strategies for effectively managing a mediation process and generating a conducive environment for assisted negotiation.
- Developing the skills which facilitate effective communication between the parties in conflict.
- Suggesting a framework for handling a mediation process.

[Trainer does not need to mention these objectives to avoid sounding too mechanical. This is a mental note for the trainer to be aware of in the facilitation of this module.]



RIGHTS POWER INTERESTS

Disputing parties may resolve conflicts on their own...

OR a third person may step in to help with resolving the conflict.

SLIDE
95

NOTES

Remind the participants of the three ways a person may deal with a conflict – using their rights, power, or interests [refer to previous notes for more information]- and the fact that parties may deal with a conflict on their own OR ask a third person to step in to help resolve the conflict.



Three approaches to conflict resolution

- Disputing parties to resolve conflict on their own.
- A third person steps in but resolution of conflict remains with disputing parties.
- Turn over entirely to a third party the power to resolve the conflict is turned over entirely to a third person.



The gap in between:
MEDIATION

moving through a difficult conflict process'. (Mayer)

NOTES

Note that there is a gap between RESOLVING CONFLICT ON THEIR OWN and ASKING A THIRD PERSON TO RESOLVE THE CONFLICT. This wide gap is the place where mediation fits perfectly.

- In a mediation process, a third person steps into this wide gap but the resolution of the conflict remains with the disputing parties.
- 'Mediation attempts to bridge the gap between resolving one's own conflicts and surrendering the power to do so to others. It helps people maintain their power over important issues in their lives as it also assists them in

Ask the participants: "If you are a party in conflict and you agree to submit your conflict to mediation, what will you be looking for in a mediator?" Draw out responses from the participants. [Trainer can use the whiteboard/a large piece of paper and ask everyone to put the traits they are looking for in a mediator on small sheets of paper or sticky notes. This question can also be asked before the section on mediator goals and roles are discussed. However, trainer is advised to ask this earlier so participants will not refer to their notes/copies of the slides relating to preferred mediator traits. Slide 111 on page 131 offers another opportunity to do (or return to) this exercise].

NOTES

- Although resolving conflicts is not limited to two approaches – resolving the conflict on our own or asking a third party to decide – these two approaches are often used. Once parties are not able to resolve the conflict on their own, they submit the matter to a third party (often a judge) to resolve the matter. But there is a space in between.
- Mediation is in that space in between, where parties in conflict continue to maintain their power to decide the important issues in their lives with the assistance and guidance of a third party. When people in conflict are left on their own, they can find it difficult to navigate the conflict process as there are many factors affecting their interactions (e.g, trust issues, emotional baggage). The mediator is the SKILLED third person who may be able to help the parties engage in the conflict resolution process in a more productive manner.

SLIDE 97

Where mediation fits (perfectly)

“Mediation attempts to bridge the gap between resolving one's own conflicts and surrendering the power to do so to others. It helps people maintain their power over important issues in their lives as it also assists them in moving through a difficult conflict process.

*The Dynamics of Conflict Resolution:
A Practitioners Guide, Bernard Mayer*

Mediation

A definition

“*The intervention in a negotiation or a conflict of an acceptable third party who has limited or no authoritative decision-making power but who assists the involved parties in voluntarily reaching a mutually acceptable settlement of issues in dispute.*”

The Mediation Process, C. Moore

Concept of MEDIATION

NOTES

- Mediation is a word which is often used to make parties agree when they are faced with conflict. But mediation, as a concept, needs deeper understanding before it can be carried out in a productive manner.
- There are many descriptions and definitions of mediation and here is one from Christopher Moore.
- This definition has been selected as it captures the key features that all mediators need to remember when assisting parties in conflict.
- [Read through the definition with an emphasis on the words underlined: “intervention”; “third party”; “limited or no authoritative decision making power”; “assists”; and “settlement”.

SLIDE 98

Mediation

A simpler definition

“Any process for resolving disputes
in which another person helps
the parties negotiate a settlement.

The Mediator's Handbook, J. Beer with E. Stief

SLIDE
99

NOTES

- But if you need a handy, quick reminder of what mediation is, Beer and Stief have a simpler description of it.
- [Also encourage the participants to check online to see how mediation is described. This will encourage them to check other resources available and deepen their interest in the topic.]



Key Features

- Voluntary process
- Acceptable third party (mediator)
- No decision making power
- Intervention in negotiation/conflict
- Assistance to reach mutually-acceptable agreement

NOTES

Referring to the definitions given, pay attention to the key features of mediation. Encourage participants to remember these features. Trainer is encouraged to refer back to these often as he/she goes through related items in the module. The notes in brackets [...] below do not need to be mentioned immediately in relation to this slide. The trainer can reserve them and mention them anytime during the module.

First, the mediation process is **VOLUNTARY**.

- It is (ideally) voluntary for the parties to participate and,

likewise, to voluntarily accept or reject possible solutions to their conflicts. Naturally, it should be voluntary for either party if they wish (or do not wish) to enter into a settlement agreement with the other.

- [There are cases, though, when parties do not enter the process voluntarily (i.e. they are required to take part by their employer, or the process is required before a court case can proceed) and that is okay. In these cases, the mediator has the duty to inform the parties of the value of the process and to appreciate their

agreement to try it. However, decisions or agreements should not be imposed on the parties.]

Next, the process is handled by an ACCEPTABLE THIRD PARTY, the MEDIATOR.

- Since the process is voluntary, the parties can only be encouraged to try mediation and to participate in the process if the person who mediates between them is someone acceptable to BOTH parties. Standards of acceptability for each party are relative, but acceptability often arises from trust in the person, feeling comfortable to express oneself in the presence of the third party, belief that the third party is capable of assisting, among other factors.
- [Ideally, parties in conflict must have the freedom to choose their mediator. However, there may be cases when the parties in conflict do not have the power to select who will assist them in the mediation. In such cases, the mediator is encouraged to make extra efforts to assure the parties that they can place their trust and confidence in him/her.]

In a mediation process, the third party has NO DECISION MAKING POWER.

- This must be underscored and emphasized repeatedly during the module.
- A mediation process differs from a court/adjudicative process precisely because it maintains the parties' ability to decide for themselves. The mediator plays the significant role of helping the parties access their ability to navigate the conflict process and decide for themselves.
- [Third party intervenors may be tempted to express their own opinions or insist on solutions they think will be appropriate for the parties. Mediators are encouraged to be mindful of this temptation and let the parties find solutions for their conflicts.]
- [The mediation process is 'designed to strengthen the ability of individuals, organizations, and communities to handle their own conflicts.' (*Beer and Stief*)]

Mediation is an INTERVENTION in a negotiation/conflict

- Mediation is a particular type of negotiation process where there is a third party who intervenes and helps the parties to negotiate the conflicts that face them.

NOTES

Before one can learn and master mediation skills, every mediator must be aware of some key core values behind the process. A strong grounding in these values can guide the conduct of mediation.

Self-determination

- This is related to the earlier discussion about the mediator having no decision making power in the process.
- The word is self-explanatory: the parties must determine for themselves how they want their concerns to be resolved.
- Parties are encouraged to determine the outcome of the mediation process and not rely on any third party to make decisions for them.
- 'Mediation's consensus process assumes that dignity and participation are more important than efficiency and expertise. It rests on the expectation that... people can and should make decisions about their own lives... [and that] parties speak for themselves, think for themselves, decide for themselves.' (*Beer and Stief*)

Autonomy

- This is related to the earlier discussion about the voluntary

On the parties mediating

- Self-determination
- Autonomy

nature of mediation as well as the value of self-determination.

- Autonomy means having the ability to act differently to the way others wish a person to act or decide. This involves having the freedom to decide for oneself.

SLIDE 101



On the process and the third party

- Confidentiality
- Impartiality

NOTES

Confidentiality

- For a mediation to be meaningful, the parties in conflict need to speak with candour and openness. However, parties may be hesitant in speaking openly if there is a chance that other people might come to know what has transpired during the process. Therefore, confidentiality is a requirement for encouraging a meaningful mediation process.
- The mediator makes a commitment, preferably through a confidentiality agreement, that he/she will not tell anyone who is not present in the mediation

anything that is said during the process. The mediator is required to follow a two-fold approach to confidentiality: 1) not to tell people not present what has been said during the mediation; and 2) not to tell Party A what is said confidentially by Party B (e.g. in a private session) and vice versa.

- The parties who are participating in the mediation process are also asked to commit to keeping everything confidential.
- Because of the value of confidentiality, the mediator must limit the number of people

who join the mediation process. Preferably, only the parties who are in conflict should be present.

Impartiality

- Impartiality involves the even-handed and fair treatment of the parties. A mediator must ensure that he/she has no bias (or appearance of bias) against a party.
- The parties' candour in communication and cooperation in the mediation process is premised on their trust in the mediator. Any indication of partiality or bias can affect the parties' confidence in the mediator and in the process, and this must be controlled by the mediator.
- Partiality can be evident in both the mediator's verbal and body language.
- A mediator must be very aware if his/her personal bias is affecting his/her way of handling the process.

[Neutrality is very similar to, and often used interchangeably with, impartiality. Being neutral is not imposing one's own opinions and values on the parties. Being impartial is treating the parties fairly and even-handedly. Both are expected of a mediator.]

Mediator Goals and Roles

- To facilitate communication
- To assist negotiation
- To create a structure and environment to increase honest communication and to solve problems

NOTES

Guided by the concept of mediation and the values underpinning it, a mediator should also be familiar with his/her goals in the mediation process and the roles they will play as the third party...

The key goals and roles suggested for mediators are:

- To facilitate communication.
- To assist negotiation.
- To create a structure and environment which increases honest communication and is suitable for solving problems.

Note that all these goals and roles refer to the mediator's control of the process and the interaction of the parties in conflict. The goals and roles are not meant to influence the substance or outcome of the mediation process.

Facilitated Communication

“*The participants’ capacity to hear and understand, and not their propensity to build their position by tearing down their opponent’s, permits agreement to emerge in an interest-based process. Communication is not defined as much by what is said as by what is received. The meaning of any discourse lies primarily in the ability of the recipient to decode the message, and in the interpretation that is subsequently given to it.*”

Gary Smith, *Unwilling Actors: Why Voluntary Mediation Works, Why Mandatory Mediation Might Not*

SLIDE
104

NOTES

- Emphasize the key role of the mediator to facilitate communication between the parties in conflict.
- Read through the quote with an emphasis on the words in italics.
- Pay attention to the first sentence: The ability of parties in conflict to hear may be affected (or impaired) as they are inclined to behave in an antagonistic or defensive mode when in conflict. When Party A speaks about the conflict, Party B's mind is not focused on hearing and understanding what Party A is trying to say.

- Instead, Party B will be focusing on defending themselves in their mind and on building their arguments against Party A. But in order to move forward effectively towards resolving the conflict, an understanding of the other party's interests is a necessity.
- Note that communication is not only about talking. It is also about listening. If listening is impaired (which is likely to happen if the parties are left on their own to deal with the conflict), the resolution of a conflict is difficult to achieve.



Facilitated Communication



...Mediation promotes communication and increases the chance that the message will come through clearly, with the same meaning for both parties. This is due to the openness of the communication environment and its basis in the underlying interests, rather than the parties' adopted positions, which might otherwise obscure their real motivations.

Gary Smith, Unwilling Actors: Why Voluntary Mediation Works, Why Mandatory Mediation Might Not

NOTES

- The mediator's intervention is intended to help the parties truly hear and understand each other.
- Using his/her mediation skills, the mediator encourages openness in 'the communication environment' (*Smith*) – for the parties to express their perceptions and emotions, and to outline not only their positions but also the interests behind their positions.

Assisted Negotiation

The mediator ‘works to reconcile the competing interests of the two parties. The mediator’s task is to assist the parties in examining their interests and needs and in negotiating an exchange of promises and the definition of a relationship that will be mutually satisfactory and will meet the parties’ standards of fairness.’

Christopher Moore, The Mediation Process

SLIDE
106

NOTES

- A mediation process is a negotiation. Except that in a mediation process, someone assists in the conducting of the negotiation. So, in learning about mediation, keep in mind the contents of Module 2.



And a few more goals

optional but worthy goals

- To help the parties arrive at a mutually-acceptable solution to solve the conflict
- To build parties' confidence in handling conflict
- To help parties improve future relations

- Since parties are given the power to create solutions for themselves, mediation becomes an empowering process. As people learn how to solve their problems on their own, this increases their ability to handle, and chances of handling, future conflicts that come their way. Thus, it is worth including this as a secondary goal to avoid the parties becoming dependent on the mediator (or even judges) for resolving future conflicts they encounter.

NOTES

Note that these goals are **OPTIONAL** but worth aspiring to...

To help parties arrive at a mutually-acceptable solution to the conflict

- It is often perceived that reaching an agreement (or at least a compromise) is the primary goal of mediation. This need not be the case.
- Facilitating communication is the main goal in the anticipation that an effectively-facilitated communication process is likely to be followed by a solution.

To build the confidence of the parties in relation to handling conflict

To help the parties improve their future relations

- Whatever improved future relations mean to the parties is for them to determine. The role of the mediator is to establish an environment that encourages a discussion of existing and future relations and the identification of the parties' interests in connection with their relations to each other.

NOTES

Both the mediator and the parties must be aware that these are not the goals of the mediator:

For the mediator to create / give / impose solutions

- As mentioned earlier, some of the core values of mediation are self-determination and autonomy. A secondary goal of the process is also to build the parties' confidence in handling conflict. If the mediator actively gives (or, worse, imposes) solutions, this limits the ability of the parties to create solutions to their own problems. As a result, their confidence in handling conflicts will not increase.
- When parties go to court, the judge is expected to impose his/her decision on the parties. Mediation differentiates itself from adjudication with its defining feature of helping the parties create solutions for their own conflicts, with the assistance of the mediator.

For the mediator to make the parties reconcile

- Mediators need not insist that parties reconcile if they are not prepared or willing to do this, or if they do not see the need to reconcile.
- 'Although most parties do not leave a mediation as good friends ... [it is worth hoping] that at the least they come to a greater understanding of and empathy for the other parties' point of view'. (*Beer and Stief*)

And these are not goals hope the parties are aware of it

- To create / offer / impose solutions
- To make parties reconcile
- To determine who is right or wrong

For the mediator to determine who is right or wrong

- Mediation is different from adjudication. This is not a court and the mediator is not a judge. It is natural that the course of the conversation in mediation will touch on the parties insisting they are right but the mediator must be skillful not to prolong that conversation. Every party in conflict is likely to insist that he/she is right and the other party is wrong. Getting caught up in the right or wrong conversation is likely to slow down the mediation process.
- Instead, the mediator must facilitate the communication between the parties and help them discover each other's interests and the reasons for their behaviours or omissions.



Why being directive (giving a solution) is not encouraged

NOTES

What is behind the repeated insistence that mediators refrain from creating/offering/imposing solutions and for the parties to be the ones to create solutions for themselves?

- People are more willing to do things they thought of themselves than things that have been imposed on them. The chances of full, willing compliance are increased if parties choose the solutions by themselves.
- When parties craft their own solutions, they will have a sense of ownership of these solutions. Ownership of solutions is likely to translate into greater satisfaction in the outcome of the conflict resolution process and to an increased rate of compliance from the parties.
- Also, the confidence of parties in their ability to handle conflicts will be improved if they figure out for themselves, with the assistance of the mediator, the possible courses of action they can take to handle the conflict/s facing them.

Process is as important as outcome

For the most part, participation in mediation suggests that it is not just the elusive solution that is missing when parties are in conflict but that something about the process of the interaction needs work. How conflict resolution is conducted, how negotiations proceed, and how communication occurs are important. Mediators are called in to alter the process.

NOTES

If the parties are tasked with crafting their own solutions, why is there a need for a mediator?

- The mediator will be on top of the process to facilitate the communication between the parties and to help them navigate the conflict resolution process.
- If the process used to arrive at an outcome is good, it is more likely that a good outcome will be achieved.
- If a conflict resolution process is handled skillfully, the outcome is likely to be responsive to the interests of the parties in conflict.
- If parties are left on their own, the conflict resolution process might not proceed well and the parties might resort to more costly conflict resolution approaches, such as power-based methods.

CONTROL THE PROCESS, NOT THE OUTCOME



Desired qualities

NOTES

- Ask participants: “Knowing the goals of mediation and the roles to be played by a mediator, what characteristics should a mediator have?” Draw out responses from the participants. One option is to ask them to write their answers on a large piece of paper to encourage them all to stand up (stretch) and contribute.
- The responses from the participants can be re-read/referred to as you go through the next few slides which outline some general characteristics and skills which are valuable in mediation...

SLIDE
111

NOTES

Comfortable with high emotion, arguments, interruptions, tears.

- Conversations relating to conflict are often laden with emotions and involve lots of interruptions. As the person in charge of facilitating the communication process, the mediator must be comfortable in dealing with both.
- If the mediator is easily irritated by interruptions he/she will have difficulty in handling the process calmly.
- If the mediator can be easily swayed by emotions and become emotional him/herself, this might show in his/her facial reactions and the parties may think they are no longer impartial.

[Share experiences about when you have encountered high emotions or lots of interruptions and how you dealt with them. OR ask for the participants' input on how they deal with high emotions or lots of interruptions, or which emotions easily affect them (they have to be aware of these so they can be mindful of them during the mediation process).]

Patient as disputants inch their way towards a resolution.

- The mediator must listen patiently to drawn-out stories and wait for those who speak haltingly. The parties may be disorganised,

Traits worth having

*you may not be born with these
but these can be developed*

- Comfortable with high emotion, arguments, interruptions, tears
- Patient (especially as disputants inch their way towards a resolution)

their remarks trivial, vague, or contradictory; some will wander far off the subject, others may refuse to talk at all. Because conflict does not bring out the best in most people, you may find it difficult to listen to their mean, self-centred, or repetitive remarks.

- Parties in conflict are relying on the third person to be the one with the most patience as well as relying on them to manage the session (which may be disorganised at first) to help them complete their conversation despite the difficulties.
- Having a process (as described later) will help make the mediation easier to navigate.



NOTES

Traits worth having

you may not be born with these
but these can be developed

- Low need for recognition, credit, having things turn out your way
- Able to empathize, be gentle and withhold judgment

Low need for recognition, credit, having things turn out your way

- In a mediation process, the spotlight is on the parties in conflict.
- Mediators are faced with the temptation to dominate the discussion and, worse, to impose their opinions and proposed solutions. Mediators must do their best to resist that temptation and let the parties in conflict find their own solutions. [Recall the notes under self-determination and the expression aspect of conflict.]

Able to empathize and be gentle, to withhold judgment

- One key challenge for mediators is to be able to put themselves in the position of each of the parties in conflict. The skilled asking of questions and listening to the responses will help mediators achieve empathy or a good understanding of the feelings of the people involved in the mediation process.

[Also refer to later notes on withholding judgment.]

Traits worth having

you may not be born with these
but these can be developed

NOTES

Impartial: putting aside one's own opinions, reactions, and even some principles.

[Refer to earlier notes on impartiality and later notes on maintaining this impartiality and withholding judgment.]

Able to direct and to confront

- This is related to the desired ability to be comfortable with interruptions. Mediators need the skill to direct and confront to show their authority and control of the mediation process.
- While mediators should not influence the substance of the conversation, they are in charge of how the process is conducted and they can direct the parties on how they should behave (e.g. no shouting, no foul language).

- Impartial (able to put aside own opinions, reactions, even some principles)
- Able to direct and to confront



The Mediation Process before it starts

Some preliminaries

- Arranging room and seats
- Preparing materials
- Welcoming people

NOTES

The mediator's work starts even before the parties sit down and begin the actual mediation process.

Arranging the room and seats

- Find a room or place where the parties can have silence.
- Also find a place where confidentiality can be upheld (where the process cannot be heard, and which is not accessed easily by the public).
- Check the facilities available (e.g. where the toilets are) in order to advise the participants.
- If resources permit, have a second room or separate area

you can use to speak privately with one party, or which one party can use while waiting for a private session to finish.

- Make decisions on the seating arrangements depending on the mediator's desired environment (using a round table promotes a sense of equality or creates an impression of minimizing status differences; situating parties at opposite ends of a table with the mediator in between will help promote a sense of safety; by not putting a table between the parties, parties are encouraged to let their guard down and

an informal and relaxed environment is created; if the mediator sits at the head of a rectangular table, mediators communicate authority; making the parties sit beside each other may not be a good idea).

Preparing materials – if resources permit, have the following ready:

- Board or large piece of paper (where issues and options can be written during discussions)
- Water
- Paper and pencils (as participants are encouraged to take notes to guide their thought process during discussions)
- Tissues

Welcoming people/meeting the parties:

Greet each person and immediately take steps to make them feel at ease. But be careful that you do not end up chatting with either party too much because once the other party arrives and sees that you seem to be engaged in a friendly conversation with the other, they may think you are no longer impartial.





The Mediation Process before it starts

Nature of process

- Informal, conversational
- Flexible
- Length per session

NOTES

Nature of the process

- Informal, conversational (no strict formalities like there would be in a court).
- Flexible (the process outlined in this manual is a suggested process that is used in many mediations).
- Do not work from a script; be authentic, natural is best.
- Approximately 2 hours (or half a day) is ideal for one session; a prolonged session may exhaust the parties (but if the parties have generated good momentum – i.e. communication is flowing – then the mediator can proceed beyond the half day).
- The mediator can call separate meetings at any time.

NOTES

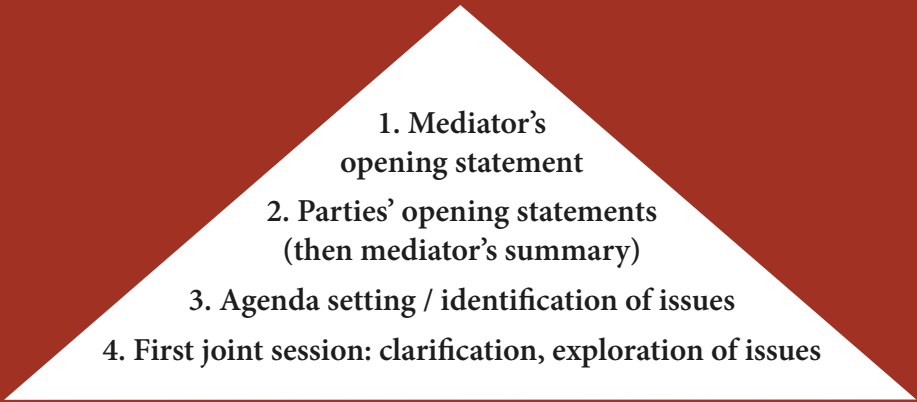
- This is merely a SUGGESTED approach. As will be seen in the following slides (both the overview and the detailed content), there is a rationale for this suggested flow for the mediation.
- The mediator can modify the flow of the mediation process if deemed necessary.
- ‘Following a formula in a flexible way brings structure to the session, discourages the confusion and lack of focus that occurs when participants are verbally and mentally jumping around all over the place, and encourages forward movement. Outlining a plan for the session at the outset promotes confidence in the participants that the mediator, at least, knows where he or she is headed. Parties appreciate a sense of order and predictability in the session knowing what will happen next and why.’ (*The Mediator’s Handbook: Skills and Strategies for Practitioners, Charlton and Dewdney*)
- The intention is that the trainer presents a general description of each stage of the mediation process (based on the notes which follow) and compares it to that of the negotiation process (as discussed in Module 2).

The Mediation Process an overview

A suggested approach



First phase: Problem Identification



NOTES

- This is the **PROBLEM IDENTIFICATION** phase.
- The triangle shape indicates how knowledge and understanding of what is going on, the interests of the parties, as well as the issues that need attention and possibly solutions, expand during this phase.
- The parties are encouraged to allocate a good amount of time to working on the issues in the upper triangle part of the process before moving to the second part (inverse triangle). (*Charlton and Dewdney*)
- By faithfully following these steps the mediator and the

parties are encouraged to identify interests first and frame the problem/s and issue/s accurately instead of immediately trying to solve the problem and arrive at an agreement. [If relating this to Module 2, the upper triangle part of the mediation process is where the following elements of a negotiation process happen: separating the person from the problem, discovering interests, and, perhaps, understanding alternatives.]

- Spending time on the parts of the process in the upper triangle ‘discourages, among other things, the temptation to rush to solutions too early. This is because a rush to solutions carries the danger of locking parties into their opening positions at an early stage before they have had time to provide, and gain, some understanding of why an opposing position is being taken and before doubt has been created about maintaining their own position.’ *(Charlton and Dewdney)*

SLIDE
118



Second phase: Problem Solving

5. Private sessions /separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

NOTES

Note: The optional private sessions may not be needed if the parties are communicating well.

- This is the **PROBLEM SOLVING** phase.

- The inverse triangle indicates that, from the pool of knowledge (carefully identified interests, well-crafted issues, etc), the mediator and the parties will start to deal with each issue through negotiation and problem solving.
- The triangle narrows as the problems are attempted to be solved one by one.
- If we look back at what was learnt in Module 2, the inverse triangle refers to the further discovery of interests, the generation of options, the creation of objective criteria and also understanding alternatives to a negotiated agreement.

**First phase:
Problem
Identification**

1. Mediator's opening statement
2. Parties' opening statements (then mediator's summary)
3. Agenda setting / identification of issues
4. First joint session: clarification, exploration of issues

5. Private sessions /separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

**Second phase:
Problem Solving**

NOTES

- Taken together, a diamond shape is created where, in the middle of the process, the parties have the widest understanding of each other's concerns and issues.
- Even if, as the mediator, you modify this process, remember the goals which are intended to be achieved by the upper triangle first, then the inverse triangle.



KEY SKILL: Listening

(particularly, ACTIVE LISTENING)

The mediator must be an excellent listener because almost everything a mediator does is about facilitating communication.

The mediator must listen effectively before they can get parties to listen to each other.

But people are naturally not good at listening.

SLIDE
121

NOTES

- The mediator must be an excellent listener because almost everything that a mediator does is about facilitating communication. Mediators must listen effectively before they can get the parties to listen to each other and to communicate productively.
- This skill is needed in all phases of the mediation process.

NOTES

Create a scenario where all the participants will be 'the listener' and the trainer will be 'the speaker'.

- Sample scenario: The trainer is an employee who tells the listener that she wants to resign because she has reached her limits and wants to leave the office for good.
- The scenario assumes that the speaker (the resigning employee) is a valued member of the company and the listener (who may be the boss or a Human Resources officer) wants them to stay on.
- Keep the opening comments of the speaker to a minimum and then let the participants (whoever volunteers, taking turns) ask questions to hear more about what the speaker wants to say.
- Note the questions or statements posed by the participants as listeners. The most likely questions/responses will ask about why the speaker is resigning and the rest will be focused on presenting solutions to convince the speaker not to resign. You will also note that questions or statements will be laden with assumptions about what the speaker feels.
- Limit the process to eight to ten questions/responses from the participants as listeners.
- The goal is to observe the listening habits/tendencies of the participants.

Let's practice listening.

The scenario created can be more complicated depending on the style of the speaker. Ensure that the scenario which is created is not a giveaway (i.e. the listener can easily spot the interests or feelings of the speaker).

Process questions:

- What is the reason you asked [insert the question here]?
- Check the assumptions of the participants when they asked the question. [For example, if the participant suggests: "Why don't I hire an additional staff member or unload some of the work so that you'll stay?" ... This question assumes that the heavy workload



is the reason for the employee's resignation. But the real interest of the employee (which a good listener must discover) is that she wishes to cultivate a work-life balance or to experience career fulfillment.]

Alternate exercise –

- Exercise relating to the viewpoints of a speaker and listener, carried out in pairs. One person is appointed as a speaker who will relay a personal experience (preferably a problem situation) to the other. The other person is asked to listen carefully to the speaker.
- The listener is asked to be mindful

of what is going on in his/her mind while they are listening. The speaker is asked to note how he/she feels while the other person is listening.

- This exercise aims to make the participants aware of: (a) when the speaker feels as if he/she is being listened to: and (b) the common barriers that prevent people from listening effectively.

Process questions:

- For the speaker – Did you feel that the other person listened carefully? What were the indicators of good listening? Did you feel there are elements which could be improved? What are those?
- For the listener – What was going through your mind while listening? Any impressions, opinions, points of agreement or disagreement, judgments? What challenges did you encounter while listening?
- Ask the participants: Which attitudes or behaviours when someone is speaking makes it difficult for you to listen effectively? (Or think of another activity that will draw out their responses to this question).

As you collect the responses from the process questions, slowly connect the feedback to the contents of the following slide.

Common barriers to effective listening

NOTES

- On laziness, boredom and inattentiveness – Trainer asks participants: Do you remember times when family, friends or colleagues, when relating stories, include details that seem unimportant to you as a listener? Or when they tend to talk vaguely about apparently unrelated subjects and your mind loses focus? Or when the speaker says things that are not interesting to you?
- On close-mindedness and being opinionated – Trainer asks participants: Recall times when you have been listening to someone who says things that go against what you believe; or instances where things have been said which are similar to your own experiences. What were you feeling while listening? Did you want to do/say anything?
- On insincerity — Trainer asks participants: Remember occasions when you have been in a situation where you have said you will listen (e.g. with friends) or where circumstances have

- Being opinionated
- Close-mindedness
- Boredom
- Laziness
- Insincerity
- Inattentiveness

Good attention is a prerequisite to listening

required you to listen (e.g. as part of work) but you have not really been interested in hearing what the person talking has to say?

- Experts say that we are naturally not good at listening for a range of reasons. We have a tendency to swap stories, so we interrupt. We're uncomfortable with emotions, so we avoid focusing too closely on someone else's. We'd rather talk about ourselves, so we rush the talker along.

[There is no need to spend too much time on this slide. The goal is simply to make the participants remember, and reflect deeply on, how they are as listeners.]



Elements of good attention

(Overcoming the barriers
to effective listening)

1. Focus
2. Maintain impartiality
3. Withhold judgment
4. Show caring

NOTES

Remind participants of their weaknesses as listeners [identified on the previous slide] to prepare them for the next few slides which show the 'opposite' of the common barriers to listening which relate to paying a GOOD level of ATTENTION.

- 'Giving good attention means listening and observing with minimal distraction by your own thoughts. Being respectfully attentive does not mean that you agree with the speaker. It means that you are focusing on what the person is saying, rather than on how you are going to respond.'
- 'Being attentive is essential for mediators; all other skills flow

from the ability to be in the present moment. It helps you to grasp the important issues and the interpersonal dynamics of the situation quickly so that you are more likely to make wise and timely interventions. It builds rapport with the parties and encourages them to be forthcoming. Furthermore, good attention helps the speaker because it is easier to think through and articulate a point of view when you are not interrupted or challenged.'

- 'More subtly, giving good attention to each party creates an atmosphere which invites them to be attentive towards each other as well. Your ultimate goal is to have each person truly hear what the others are saying, to expand their own narrow sphere of attention outward to include the other people and perspectives.'
(*Beer and Stief*)

Elements of good attention
(Overcoming the barriers to
effective listening)

1. Focus (vs. laziness, boredom, inattentiveness)
2. Maintain impartiality (vs. close-mindedness and being opinionated)
3. Withhold judgment (vs. close-mindedness and being opinionated)
4. Show caring (vs. insincerity)

Elements of good attention

(Overcoming the barriers to effective listening)

1. Focus

- Quiet the mind
- Remove distractions
- Do not think about how to respond

NOTES

Focus

Remove distractions and quiet the mind

- This is why preparing the venue for the mediation process is important so that it is conducive for the parties to speak and for the mediator to focus intently.
- Note possible distractions such as mobile phones or people entering the room.
- Even if there are no physical distractions, the mediator can still be distracted in their mind. For the mediator, the challenge is to adopt techniques to help quiet the mind.

- [Ask the participants about techniques they use to remove distractions when listening or to quiet the mind.]

When the mind is focused, it is easier to identify emotions, the speaker's message, interpersonal reactions etc.

- When listening, the mediator is not only interested in the words said by the speaker, the mediator is also sensitive to underlying messages as well as related emotions and perceptions. (Remember the dimensions of conflict and where conflict manifests itself?)



- Being aware of changing emotions and reactions is necessary in order to facilitate communication between the parties more effectively.

The mediator is not thinking about how to respond

- This relates to cases when the listener has an opinion about what is being said, or is eager to manage the discussion. Listening and giving the speaker sufficient space to express him/herself are the priorities. Once the mediator starts thinking about how to respond to/ interrupt/influence the flow of discussion, the focus is lost.

When your mind is focused, you notice 'both the emotion and the content the speaker is conveying, the interpersonal reactions, the context. You are not thinking about how to respond.' (*Beer and Stief*)

SLIDE 125

Elements of good attention (Overcoming the barriers to effective listening)

2. Maintain impartiality

- In thought and appearance
- While one is talking, look at the other party to check reactions and to give assurance of impartiality

NOTES

Maintain impartiality

The mediator must maintain impartiality and openness in both thought and appearance

- This requires a high degree of mindfulness on the part of mediators.
- Mediators must recognize when their personal biases kick in (even in thought): or when they make non-verbal gestures or reactions that might give an impression of bias or judgment; or when they are tempted to give their own ideas for solutions.
- If the mediator knows that he/she often makes gestures

which may be misinterpreted as partiality (e.g. nodding while listening), inform the parties ahead of time that the gestures are unconsciously done and must not be taken as an indication of bias.

While one party is talking, occasionally look at the other parties to check how they are reacting and to give an assurance that you remain impartial

- When listening, pay close attention to the person speaking. But, to give the other party the assurance that you are keeping

them in mind, an occasional glance or check of their reactions is needed to maintain the appearance of impartiality.

- This technique is not only meant to maintain impartiality. Looking at the other party while one party is speaking is a way to note the emotions or reactions of that other party – indicators that must be noted as the mediator facilitates the conversation.
- ‘Your face and posture show that you are listening. You look at others as well as the speaker to see how each person is reacting and to keep the participants from feeling that you are biased or gullible. You are careful that nods and murmurs do not make you appear to be agreeing with the speaker.’ (*Beer and Stief*)
- [Ask the participants to reflect on their gestures and the possible interpretations of them.]

Note: Impartiality does not mean indifference.

- Impartiality is giving both parties even-handed treatment. Indifference is showing a lack of interest, concern or sympathy.
- Mediators, as listeners, are required to show sincere interest in, and concern about, what both parties are saying.

NOTES

Withhold judgment

While listening, put aside thoughts of who is right and wrong, what a person should do, what you would have done if you were in that situation

- We might be very used to the idea that when there is a conflict, there is a person who is right and another who is wrong. And as we listen to a conversation relating to a conflict, we naturally have perceptions about who wronged who.
- As people with our own set of beliefs and values, we all have ideas of how a person should behave in particular circumstances or of how we would behave if we were confronted with similar circumstances as those facing the parties in conflict.
- Mediators must be careful not to let those thoughts interfere with the way they manage the conversation between the parties.

Be aware of biases and prejudices, and be mindful of whether these biases are affecting the way you listen to the parties

- Mindfulness is, again, the key. Mediators might not be aware that their judgments or biases (which might be implicit) affect

Elements of good attention
(Overcoming the barriers to effective listening)

3. Withhold judgment

- While listening, put aside thoughts of: who is right/wrong; what someone should do; what would you have done if you were in the situation
- Be aware of biases and prejudices; check if these affect your listening

their language and the way they deal with the parties in conflict.

- Mediators can keep their own perceptions and value system but be mindful of these and make sure they do not affect the way they handle the mediation process.

SLIDE 127



Elements of good attention

(Overcoming the barriers
to effective listening)

4. Show caring

- Look at speaker as a person not as a party in conflict
- Acknowledge what the person feels while in conflict
- Display verbal and non-verbal behaviour indicating sincerity and interest

NOTES

Show caring

Look at the speaker as a person and not a mere disputant

- To avoid having a right/wrong frame of mind, try not to look at the parties talking as people

having disputes. Treat each one as a person who is telling their stories.

- Remember that everyone comes from a frame of mind in which they are the heroes in their own stories.
- And treat each one with care — this is something that cannot be taught through training. Every person has to dig deep and find their caring gene when listening.

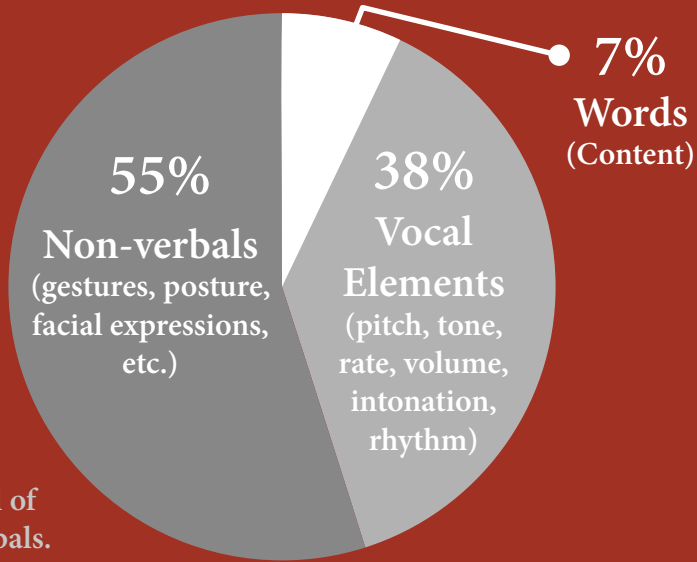
Acknowledge what the person feels while in conflict

- Acknowledging is different from agreeing. [More on this in the section on active listening.]

Display verbal and non-verbal behaviour that indicates you are sincere and interested

- Sincerity and interest come from within. But everyone can practice using language and displaying behaviour that shows the sincerity and interest they feel.
- [Ask the participants: when you are talking, how do you know the person listening is sincere and interested?]

As part of discussing all four slides on paying attention, remind the participants of the feelings they have when they are talking and what they want in the person who is listening.



Be mindful of the non-verbals.

SLIDE 129

NOTES

Studies show that non-verbal elements have more impact than verbal elements in communication settings.

- Knowing this, the mediator must:
- Carefully note the non-verbal communications displayed by the parties in conflict; AND
- Be mindful of his/her own non-verbal communications and what these communicate to the parties involved in the mediation process.



Some non-verbal ‘immediacy behaviours’

- Eye contact
- Sit strategically
- Let facial expressions reflect what he/she is saying
- Put phone away
- Actions that say: *“You have my attention. I am interested to hear what you will say.”*

NOTES

- ‘Immediacy’ is the quality of bringing one into direct and instant involvement with what is being said by the speaker.
- [Quickly go through the list on the slide and then ask the participants to reflect on, and identify, some of the ‘immediacy behaviours’ they often use when listening and which behaviours they can adopt as they venture into becoming better listeners.]

SLIDE
130

NOTES

- There is active and passive listening.
- In passive listening, the mediator:
 - Listens in silence to what the parties are saying.
 - Responds in a passive way through the use of: (1) non-committal acknowledgements (e.g. "Oh" and "I see"); and (2) open-ended questions which allow the parties to continue their narrative while the mediator listens on.
- Passive listening will give the parties an opportunity to speak and tell their stories and enable the mediator to understand the issues between the parties.
- Passive listening is used in all stages of a mediation process 'to encourage a party to go on talking and to convey the mediator's interest in what a party is saying.' (*Charlton and Dewdney*)
- Objectives of passive listening –
 - To encourage parties to continue talking
 - To encourage parties to finish a sentence especially when they are hesitating while talking
 - To convey to parties by keeping quiet and not looking uninterested that the mediator is genuinely interested in what is being said
 - To observe the effects parties have on each other (*Charlton and Dewdney*)

SLIDE 131

In active listening

- Focus on words, pitch and tone, body language and other non-verbal information
- Reflect back to parties, in paraphrased form, the emotions and feelings expressed (explicitly and by implication) in the parties' narratives

• But passive listening is not enough. Mediators need to learn **ACTIVE LISTENING** to effectively facilitate communication and assist the parties in their negotiations.



Particularly, ACTIVE LISTENING

- Will assure parties they've been heard and understood by the mediator
- Will increase the parties' trust in the mediator's ability to facilitate the negotiation
- To allow the speaker and listener to verify the precise meaning of the message and to confirm that the message was heard

NOTES

- In mediation, active listening happens when the mediator 'listens to what parties are saying and feeds back in an active way reflecting an appreciation of the significance of what the parties have said, including the underlying emotional content.'
(*Charlton and Dewdney*)
- Objectives of active listening –
 - To convey to the parties that the mediator has not merely listened to the parties but has understood them and appreciated the significance

- that they attach to what they have said.
- To reflect back to the parties the intensity of their feelings.
- To clarify and minimize miscommunication between the parties.
- To make constructive use of what the parties have said in order to facilitate their negotiations and to make more effective their search for a mutually satisfying outcome.
- To facilitate problem solving by creating opportunities for empathy and mutual

understanding. (*Charlton and Dewdney*)

- In active listening, the mediator:
 - Focuses on words, pitch and tone, body language and other non-verbal information.
 - Goes further by reflecting back to parties, in paraphrased form, the emotions and feelings expressed (explicitly and by implication) in the parties’ narratives.
 - [Example: A wife talks in a frustrated manner about how she cannot rely on her husband as he is not spending enough time at home to do his share of house chores. The mediator can respond by saying that “You seem frustrated and looking for some assurance of assistance in doing housework”].

- Active listening will:
 - Assure the parties that they’ve been heard and understood by the mediator.
 - Enable the parties to instill trust in the mediator to facilitate the negotiation.
 - Allow the speaker and listener to verify the precise meaning of the message which has been heard.

SLIDE 132



What are you listening for?

• Factual content	To navigate discussion better (particularly first phase of mediation)
• Different interests and needs of the parties	To frame the problem/s clearly; to help parties understand the conflict more deeply
• What is being communicated on an emotional level	To make parties feel heard; to acknowledge emotions that interfere with ability to move toward negotiation stage
• Opportunities for negotiation and agreement	To manage the second phase of mediation well

NOTES

What is a mediator looking (listening) for?

- Factual content (to be able to navigate the discussion better).
- The different interests and needs which are motivating the parties (to be able to frame the problem clearly; and help the parties understand the conflict more deeply).
- What is being communicated between the disputants on an emotional level (to make the parties feel heard; to acknowledge emotions that interfere with the ability of the parties to move towards the negotiation stage).
- Opportunities for negotiation and agreement.

SLIDE
133

NOTES

- Without having to get involved in labelling whether one's way of listening is active or passive, the mediator, when listening, can be driven by the desire to understand what the person (speaker) thinks and feels (especially at the initial stages of the mediation) in order to gain an understanding of how the speaker sees the conflict and feels about it.
- Some guide questions to keep in mind to aid active listening –
 - How does the speaker perceive the conflict?
 - How does the speaker feel?
 - What are their needs and interests?
 - What factors affect their views, feelings and behaviour in relation to the conflict?
- By maintaining the desire to put oneself in the other person's position, the mediator (listener) will be motivated to keep an open mind and will avoid imposing his/her own values and belief system on the other person.

To aid in active listening...

Try to put yourself in THEIR POSITION

- How does the speaker perceive the conflict?
- How does the speaker feel?
- discover/understand needs and interests
- What factors affect his/her views, feelings and behaviour in relation to the conflict?



“If I understand correctly
then you think ...”

“You seem to be most
concerned about...”

“From what I understand,
you felt angry or frustrated
when.... [incident that
happened]”

“So you’re saying that...”

To aid in active listening...

Verify understanding and REFLECT

- Not simply repeat what was said
- Using your own words, re-state what you think the speaker said
- Try to interpret speaker’s words in terms of feelings

NOTES

- Reflecting back is one way of verifying understanding and of achieving the objectives of active listening.
- When reflecting back, keep in mind:
 - Not to simply repeat what was said. [It is annoying for the speaker to hear what was just said. Also, the mediator does not have to re-check if every single statement was correctly understood. It is sufficient to reflect back after a complete thought process has been relayed by the speaker.]

- To use your own words when re-stating what you think the speaker said. [By using his/her own words and not those of the speaker, the mediator is able to verify if his/her understanding is truly accurate.]
- To try interpreting the speaker’s words in terms of feelings. [It is handy for a mediator to have a mental list of different feelings or emotions that may capture whatever the speaker may have expressed. Speakers may be inclined to use foul or hateful language and one way

of capturing such language without the toxic content is to attempt to capture the feeling behind it.]

- Some ways to verify understanding –
 - “You seem to be most concerned about...”
 - “If I understand correctly then you think ...”
 - “So you’re saying that ...”
 - “From what I understand, you felt angry or frustrated when.... [incident that happened]”

SLIDE
135



NOTES

Verify understanding and REFLECT

- Speaker can confirm that you understood
 - (a) What happened; and
 - (b) The speaker's psychological response to what happened.
- If you did not understand completely, the speaker can explain more.

By actively listening:

- The speaker can confirm that the mediator understood: (a) what happened; and (b) the speaker's psychological response to what happened.
- If the mediator did not understand completely, the speaker can explain more (this is the opportunity for the speaker to clarify what was said further in order for the mediator – and, necessarily, the other party in conflict — to understand what was said more accurately).
- A few more handy lines to use when verifying understanding –
 - “...Am I on the right track?”
 - “...Is that what you would like to see happen?”
 - “Is there anything else that I have missed or failed to capture accurately?”
 - And if the speaker says the re-statement is not accurate: “Kindly tell us [i.e. the mediator and the other party in the mediation process] what we need to understand better...”
- [There will be more details on this when the module covers the core skill of reframing, which is one way of verifying understanding and reflecting back.]

SLIDE
136

NOTES

- People in conflict may not only be looking for solutions to their concerns. Some merely need space to be heard and acknowledged.
- Remember the expression aspect of conflict?
- If a person feels that somebody (the mediator, even the other party) has heard him/her (and, even better, understood what was said), that person will feel valued and will be more cooperative in trying to negotiate.
- Acknowledging the speaker's message and understanding the viewpoint which has been expressed is different from agreeing with it.
- With the mediator acknowledging the speaker's message, the other party will hear the same message from a different person and might receive the message with more understanding. By intervening to verify his/her own understanding of the message, the mediator may already be helping both parties understand the other and may consequently reduce the 'area' of conflict.

To aid in active listening...

ACKNOWLEDGE message (even if you do not agree)

- Understanding the speaker's viewpoint is different from agreeing
- Helping both parties understand the other may reduce "area" of conflict

SLIDE
137



More than technique; it's intention.

SLIDE
138

NOTES

- Beyond technique, to listen effectively you need:
 - To employ a genuinely curious approach and be authentic.
 - To appear, and actually be, interested in listening.
 - To avoid looking insincere or appearing to merely repeat what the parties have said or felt.
 - To restrain inner voices and prejudices.

‘The key is intention and focus.’

Bernard Mayer

SLIDE
139

NOTES

- No amount of training can make a person a really good listener. Intention and focus is the key, and these are skills that are innately developed.



“When people focus their attention, their energy, and their best listening and articulation skills on an exchange, others generally feel respected, even in the midst of conflict.’

Bernard Mayer, 'The Dynamics of Conflict Resolution'

SLIDE
140

NOTES

- Further highlight and underscore the importance of focusing attention while listening.

Let's practice again.



NOTES

- Continue the same exercise carried out before the start of the section on listening (or create a new listening exercise) and ask the participants to listen to the trainer who will be the speaker.
- Trainer will share a story which involves emotions and which will not easily reveal his/her desires and interests. Positions can be stated but let the participants use their listening skills to identify interests and verify their understanding of what the speaker is saying.
- This time, the trainer will note changes in the way questions are asked and see if the participants were able to use the techniques involved in both passive and active listening.

The Mediation Process

NOTES

- Trainer will now proceed to outline a suggested mediation process, which has the following steps:
1. Mediator's opening statement
 2. Parties' opening statements
 3. Agenda setting/ identification of issues
 4. First joint session
 5. Private sessions
 6. Joint sessions
 - a. Option generation and evaluation
 - b. Negotiation and problem solving
 7. Mediation outcome

SLIDE
142

1. Mediator's opening statement
2. Parties' opening statements (then mediator's summary)
3. Agenda setting / identification of issues
4. First joint session: clarification, exploration of issues
5. Private sessions /separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

SLIDE
143

NOTES

Introductory slide for the following slides on the mediator's opening statement.



NOTES

Goals

Mediator's opening statement

- Mediation tone set
- Presence and control of mediator established
- Rapport with parties developed
- Trust of parties gained
- Objectives of the process is clarified with the parties

An opening statement is not a simple script. It is an important part of the process as it:

- Sets the tone for the mediation (the overall mood created at the beginning will have a significant impact on how the parties will behave throughout the process).
- Establishes the mediator's presence and control of the process.
- Establishes the mediator's rapport and connection with the parties.
- Creates/enhances (or diminishes) the trust of the parties in the mediator.
- Offers the opportunity to clarify the objectives of the process with the parties (managing expectations; ensuring the parties share the same understanding, at least with respect to the process).

'The importance of the mediator's opening statement and its impact on the mediation should not be underestimated. Anxious parties need to be put at ease and trust in both the mediator and the process needs to be developed. The mediator needs to create a positive atmosphere. The parties also need reassurance about having selected mediation as an appropriate forum for their dispute.' (*Charlton and Dewdney*)

NOTES

1. Welcome greeting and words of encouragement
 - Do normal introductions and welcoming remarks or greetings before the formal statement.
 - Ask how the parties wish to be addressed (“Are first names okay?”)
 - Mediator can give details of his/her background.
 - Give reassurance on the choice to mediate.
2. Purpose of mediation
 - Briefly mention what the mediation process aims to achieve [refer back to earlier notes on objectives and goals].
 - Explain that mediation is voluntary.
 - Explain that any agreement at the end of the process may take a variety of forms including oral or written, and it may be a final agreement or an interim one.
3. Role of mediator
 - To facilitate the communication, negotiation and decision making of the parties.
 - Not to establish facts or determine who is right or wrong – the mediator is impartial.
 - Not the decision-maker.
 - Not to control the substance but to control the process – the mediator has no interest in the outcome.

Suggested content

Mediator's opening statement

- Welcome greeting
- Words of encouragement
- Purpose of mediation
- Role of mediator
- Confidentiality
- What will happen
- Ground rules
- Check willingness to proceed

4. Confidentiality

- Mediation is confidential unless anyone involved in it is required to reveal the contents of the process by law.
- Parties are enjoined to keep everything which is said in the process confidential.

5. What will happen

- Briefly outline the stages of the mediation process,

6. Ground rules/courtesy rules

- Respect for everyone present.
- Allow each person to speak uninterrupted.

7. Check if the parties have concerns and check their willingness to proceed.

Some advice Mediator's opening statement

- Keep it short
- Use voice effectively
- Emphasize participation is voluntary

NOTES

Tips:

- Keep it short. Nervous or angry parties in the process may not take in much information.
- Use simple, everyday language and language that makes you feel comfortable.
- Use your voice effectively and be aware of the non-verbal messages you are sending.
- Emphasize that participation is voluntary.
- Ensure the parties feel free to ask questions at any stage of the mediation process.
- Adopt a confident, relaxed and positive approach when explaining your role as mediator.

[Exercise: Ask participants to write an opening statement

- Put the participants into pairs or groups and ask them to give their template opening statement. They will then give each other some feedback on the content and delivery of the opening statement.]

SLIDE
146

1. Mediator's opening statement
2. Parties' opening statements (then mediator's summary)
3. Agenda setting / identification of issues
4. First joint session: clarification, exploration of issues
5. Private sessions /separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

SLIDE
147

NOTES

- This is an introductory slide for the following few slides about the parties' opening statements and the mediator's summary which follows them.



Goals

Parties' opening statements (and summary)

- For mediator: an overview of situation and sense of personalities
- A respectful environment for speaking and listening
- For parties: opportunity to explain without interruption and chance to hear each other's stories
- Parties feeling heard

NOTES

Goal of the parties' opening statements:

- For the mediator to gain an overview of the situation and a sense of the individual personalities involved in it.
 - To enable the mediator to get a sense of the wider picture but not the intricate details.
 - 'The parties' opening statements are ostensibly made for the mediator to hear and note the concerns of each party without interruption from the other side. The mediator takes written notes of what each party says and then feeds back these statements

in summary form. From those usually different versions, the mediator then identifies and extracts the common and individual issues and concerns. This stage reinforces the impartiality of the mediator, who gives equal attention and acknowledgment to each side.' (*Charlton and Dewdney*)

- To encourage the parties' active participation by allowing them to have their say about the conflict.
- Inviting them to give an opening statement is a 'clear indication to them that the role they are expected to play in mediation is one of active participation rather than one of depending on others.' (*Charlton & Dewdney*)
- To give each party a chance to hear the other
- 'A characteristic of mediation is its ability to create doubt. New information emerges. The other point of view is given an equal airing as each party gives an opening statement. The doubt creating begins at this stage in quite a subtle manner as each party hears the other side directly, perhaps for the first time.' (*Charlton & Dewdney*)
- To give each person an opportunity to explain his/her viewpoint and explain their feelings without interruption.

NOTES

Explain what happens at this stage of this process

- Each person gets uninterrupted time (approximately five minutes) to speak while the other listens.
- This is open-ended so the person can talk about anything which is relevant to the situation.
- Ask each party to (a) respect the other person's time to speak by listening without interruption; (b) note anything that may be brought up later; and (c) listen for anything new.

Pose open-ended questions to guide the opening statement

- [See suggested questions on the next slide.]

Select someone to start (without further explanation)

- The mediator has the option to ask the parties to nominate who will speak first to show his/her impartiality. However, if this might be a cause for conflict to occur, the mediator can use the suggestion which follows.
- Suggestion: whoever initiated the mediation process (or whoever filed the case) can start – with the mediator explaining that the reason for choosing the first speaker is because he/she initiated the process. In this case, the mediator emphasizes that it makes no difference to him/her who begins

Suggested flow

Parties' opening statements (and summary)

1. Explain what will happen at this stage of the process
2. Pose open-ended questions to guide the opening statement
3. Select someone to start
4. After parties speak, summarize both statements

Mediator summarizes after BOTH parties speak

as both parties will have equal time to speak uninterrupted.

After both parties speak, summarize both statements

The goals of giving this summary are:

- To confirm if the mediator has understood the conflict situation well before proceeding with the discussion.
- To ensure the parties feel heard.
- To make the parties hear the story more objectively.

Since an opening statement is only meant to give the mediator the bigger picture, it should not take more than five minutes.



Guide questions for opening statement

Parties' opening statements (and summary)

1. "Can you tell us about the situation from your point of view?" [Perception]
2. "What has been happening...?" [Action]
3. "...and how does it affect you?" [Feeling]

NOTES

Pose open-ended questions to guide the opening statement

- "Can you tell us about the situation from your point of view?" (PERCEPTION)
- "What has been happening?..." (ACTION)
- "...and how does it affect you?" (FEELING)

- Remind the second speaker not to respond to the first speaker's statement. The second speaker must be encouraged to give his/her statement as if he/she is the first speaker. (After reminding them of this point, reiterate the guide questions).

- 'The parties are asked by the mediator to outline what the dispute means to them, not just in terms of identifying the issues, but in terms of how they have been affected by them. It is important that the parties are encouraged to share their feelings about what has happened rather than just give a factual or legalistic account.' (*Charlton and Dewdney*)

While they talk

Parties' opening statements (and summary)

NOTES

The core skill during these opening statements is listening (more passively than actively).

In passive listening, the mediator:

- Listens in silence to what the parties are saying.
- Responds in a passive way through the use of: (a) non-committal acknowledgements (e.g. "Oh" and "I see"); and (b) open-ended questions which allow the parties to continue their narrative while the mediator listens on.

Tips:

- Listen closely and take notes.
- Note key words (e.g. expressed feelings).
- Display non-verbal behaviours that indicate listening (if you are a 'nodder', inform the participants that your nodding does not mean you are agreeing, instead it means that you are hearing what is being said).
- Discourage discussions from happening during the opening

- Listen closely and take notes
- Note key words (e.g., expressed feelings)
- Show non-verbal behaviours that indicate listening
- Look at both speaking and non-speaking parties to observe them

statement stage. Discussions will be more productive during the first joint session when the issues for discussion have already been outlined.

- Expect some interruptions to happen. If an interruption is brief and is only about a minor matter, you can ignore it. But if the interruption is disruptive or occurs more than once, the mediator must remind the person causing the interruption that the opening statements are 'for the mediator's benefit and there will be plenty of opportunity for clarification and round table talk later.' (*Charlton and Dewdney*)

What to listen for and note

Parties' opening statements (and summary)

- The answers to the guide questions
- Issues that can be mediated
- Interests of parties
- Points that may need more information
- Other important information that can help in conducting the discussion

NOTES

What to listen for?

- The interests of the parties [relate to earlier notes on interests].
- Values (this also relates to interests as values reflect back what is important to the speakers).
- Issues that can be mediated (this is in preparation for the next part of the process – of creating the agenda).
- Ideas and suggestions raised (these will be helpful during the private sessions and the second joint session when the mediator will assist the parties in generating options that may be discussed during the negotiations).
- Points that may need to be elaborated on further.
- Important information (e.g. amounts of money owed) so the mediator can efficiently manage the discussion.

NOTES

The core skill after these opening statements (AND during joint discussions) is summarizing.

Summarizing is a skill that will help all parties keep the mediation session on track. The mediator summarizes to focus the group's attention and to help everyone understand and organise the different threads and layers of discussion.

When summarizing an opening statement:

- Re-state the opening statement (without repeating everything) to highlight the things that are most important to the parties and to give the parties a chance to re-hear what the other party said.
- Identify the concerns raised by each party.
- Capture key words mentioned by the parties.
- Keep it simple. Omit details and explanations.
- Be mindful that your own opinion is not 'colouring' your words.

*Note that the skill of summarizing is also useful throughout the process (e.g. when the discussion is becoming heated; when too much information has been shared).

Simulation Exercise 2:

- Divide the participants into groups of three. The trainer will assign the

SKILL: Summarizing

- Re-state opening statement (without repeating everything) to highlight concerns and matters most important to parties
- Capture key words mentioned
- Keep it simple; omit details and explanations
- Be careful that your opinion is not "colouring" your words

* Also useful throughout the process

mediator and the two others will play the role of the parties in conflict.

- The exercise is on giving an opening statement as a mediator and making the conflict parties give their opening statements.
- After the opening statements, the mediator will attempt to summarize them.
- The participants who play the roles of the parties in conflict will observe how the appointed mediator gives the opening statement, handles the parties while they give their respective opening statements, and summarizes the parties' opening statements.

(SEE ANNEX – SIMULATION EXERCISE 2: THE CASE OF NADINE AND KATHRINE)



1. Mediator's opening statement
2. Parties' opening statements (then mediator's summary)
3. Agenda setting / identification of issues
4. First joint session: clarification, exploration of issues
5. Private sessions /separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

SLIDE
154**NOTES**

A mediation agenda is a list of the issues and concerns which the parties agree need to be discussed (but not necessarily resolved) before a final agreement is possible. These issues and concerns are mainly isolated from the parties' opening statements. The agenda is not inflexible and can be added to as more issues emerge from

subsequent dialogue or expanded information. ... In summary, an agenda is (a) a snapshot summary of the parties' opening statements; (b) a list of topics for discussion (not simply issues requiring settlement); (c) a management plan; and (d) an indicator of direction.' (*Charlton and Dewdney*)

NOTES

Given the nature of a mediation agenda, some goals to keep in mind when setting the agenda are:

- Outlining the issues which will organise the discussion
 - To bring structure to the discussion and provide a focus.
 - To encourage and maintain focus on one specific item at a time.
 - To break the dispute into manageable segments for the benefit of both the mediator and the parties.
- Acknowledging the concerns raised by the parties in their opening statements
 - By identifying, clarifying and validating the parties' issues and assuring the parties their topics will be addressed.
 - By providing an opportunity to clarify/expand on points in the opening statements.
- In addition, by having an agenda-setting phase, the mediator gets to:
 - Provide an early opportunity for the parties to cooperate on an action plan.
 - Set the scene for mutual discussion.

Goals

Agenda setting /
Identifying issues

- Outline of issues that will make discussion organised
- Acknowledgement of concerns raised by parties in opening statements



SLIDE
155



What is an issue?

Agenda setting /
Identifying issues

- Topic or concern needing discussion
- Area of contention or point of disagreement between parties
- A concern which, if clarified, will help parties settle the conflict

NOTES

What is an issue?

- It is a topic or concern which needs discussion (not necessarily a topic that needs resolution).
- It is an area of contention or point of disagreement between the parties (but frame it in neutral language).
- It is a concern which, if clarified, will help the parties to settle the conflict.

All these are drawn primarily from the parties' opening statements and clarified by the parties in the course of the agenda setting process.

For example, if the conflict is about a service contract which was supposedly violated by the service supplier, a possible agenda might be:

1. Contract
2. Quality of work
3. Times of delivery

NOTES

When setting the agenda

1. Combine the parties' concerns and develop them into issues (ensure that the key points mentioned in the opening statements are considered).
2. Present the issues to the parties as a proposed agenda. (The agreement of the parties is needed before the agenda is made final. Remember that a mediation process is based on the premise of the value of self-determination. Making the parties discuss, decide and agree on the agenda will encourage them to make decisions for themselves. The mediator also creates cooperation early on by making both parties agree on a common agenda).
3. Check with parties for accuracy and agreement. (Again, this is an opportunity to clarify/expand on the points in the opening statements and to check if the mediator has clearly understood those statements).

It helps if the mediator uses a whiteboard or large piece of paper to put together the agenda so the parties can easily refer to the draft agenda and propose suggestions if needed. Also, as the agenda can be seen by both parties throughout the mediation process, they are guided by the outline to be followed in the discussion.

When setting the agenda

Agenda setting / Identifying issues

1. Combine parties' concerns and develop into issues
2. Present issues to parties as a proposed agenda
3. Check with parties for accuracy and agreement

SLIDE 157



SKILL: Identifying ‘mediatable’ issues

- Refer to notes and check concerns heard repeatedly in opening statements
- Broad issues may be divided into specific, smaller elements
- Include any issue considered important to building a durable agreement (even if parties did not emphasize it during the opening statements)

Use neutral language

NOTES

Consider the following when identifying ‘mediatable’ issues:

- Refer to notes and check the concerns heard repeatedly in the opening statements (as opening statements are general, some parties may consider it important to discuss certain concerns or issues that were not mentioned in the statements).
- Broad issues may be divided into specific, “bite-sized” elements (but avoid making the list/agenda too long as this may overwhelm the parties).
- Include any issue considered important by the parties to

building a durable agreement (even if the parties did not emphasize it during the opening statements).

AND use neutral language in setting the agenda. The mediator translates emotional, personally felt concerns into neutral topics to discuss and maybe even a mutual problem to solve. This requires neutralizing whatever partisan language people have been using so that all parties can recognize the issue as theirs.

- Since the agenda is primarily drawn from the opening statements, it is possible

that the mediator is drawing from statements that contain potentially toxic or judgmental language.

- The mediator has the duty of removing the 'toxicity' from the language when presenting the draft agenda. (For example: One party may have repeatedly referred to a breach or violation of the contract. Instead of making the agenda item "breach of contract", convert it to a neutral "contract").
- Find a neutral word or phrase that is honest but is not a euphemism that glosses over the real problem.
- Name the behaviours, consequences, or subjects at issue without characterizing them as good or bad or relevant or irrelevant.
- Be cautious about echoing a party's choice of labels.
- And use simple, brief language.

[Using a conflict situation, ask the entire group of participants to brainstorm on possible agenda items –

- You can use the earlier exercise (SIMULATION EXERCISE 1: RICHARD & DAWN: THE SEPARATING SPOUSES) from the negotiation module to ask the participants to identify an ideal agenda.

- If the separating spouses exercise is used, a possible agenda is: (1) child custody; (2) house; (3) support; (4) money/investment fund.
- But before outlining this agenda, ask the participants for suggested agenda items.]

(SEE ANNEX – SIMULATION EXERCISE 1: RICHARD & DAWN: THE SEPARATING SPOUSES)

SLIDE
158



1. Mediator's opening statement
2. Parties' opening statements (then mediator's summary)
3. Agenda setting / identification of issues
4. **First joint session: clarification, exploration of issues**
5. Private sessions /separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

SLIDE
159**NOTES**

Once agreement has been reached on the issues, and they have been listed, each issue is now ready for open discussion, clarification and exploration by direct communication between the parties facilitated by the mediator. ... Up to this stage, the parties have been encouraged to communicate with the mediator rather than each

other. Thus, the session heralds an important change in focus. ...If the mediator handles this first joint session effectively and, providing the parties commit themselves to participating in the mediation in good faith, the prospects of their reaching a satisfactory agreement are greatly enhanced.' (*Charlton and Dewdney*)

NOTES

In the first joint discussion, some useful goals are:

- Identifying and understanding needs and interests (by both the mediator and the parties)
 - This is the part of the process where the mediator can facilitate a shift among the parties from entrenched positions and demands, to identifying needs and interests.
 - This includes allowing the parties to identify and explore the main elements of their dispute in detail, including new issues which might emerge.
- Encouraging communication between the parties
 - Since this is the part of the process where the parties are no longer addressing the mediator directly (as they were in the opening statements), the mediator can start helping the parties to communicate directly with each other during this stage of the process.
 - This session also provides the parties with the opportunity to clarify the past, which facilitates their mutual understanding of past events and perspectives and maintains a level of optimism about the future.
- Ensuring the parties feel heard and acknowledged, and providing space for the parties to vent emotions

SLIDE 160

Goals

First joint discussion

- Discovery and understanding of needs and interests (both mediator and parties)
- Communication with each other encouraged
- Parties feeling heard and acknowledged
- Apace for parties to vent emotions

- This includes providing the parties with the opportunity to express their feelings about the dispute and toward each other.



First joint discussion

- Each person can talk at greater length about anything relevant to the topic of discussion.
- For the most part, this is open-ended.

NOTES

What each party can expect during this session (with the help of the mediator) –

- Each person can talk at greater length about anything relevant to the topic of discussion. (Since this is not an adjudication session, anything said is likely to be relevant).
- For the most part, this discussion is open-ended. (The mediator is encouraging a discussion, not an interrogation. Parties should be able to talk openly and respond freely, with the mediator ensuring that the agenda items are discussed in an orderly fashion and that the parties are given equal amounts of time to speak).

Some specific duties

First joint discussion

- Encourage parties to
 - Deepen stories and share more about points raised in opening statements
 - Express interests, not merely positions
 - Talk to each other (and hear each other)
- Manage flow of discussion according to agenda
- Ensure each person is heard and is protected

If possible, less of mediator talking

NOTES

Some duties of the mediator include –

- Encouraging the parties to deepen stories and share more about points raised in their opening statements
 - In their opening statements, the parties were discouraged from responding to what the other party was saying. The first joint session is a good time for the parties to respond to the points raised in the opening statements.
 - All parties, the mediator included, can fill in the information gaps from the opening statements, then try to

move forward to understanding the issues further.

- Encouraging the parties to express interests, not merely positions
 - The parties are likely to make demands and the mediator must ask them to clarify their positions, and make them speak so that their interests are revealed.
 - The parties may feel expected to prove they are in the right (the mediator has to remind the parties consistently that mediation is not the place to determine who is right and wrong).



- Encouraging the parties to talk to each other (and hear each other)
 - The parties can be encouraged to express what they feel more deeply.
 - The parties are expected to explain why they are upset with the other party.
 - The mediator encourages the parties to speak openly and express their feelings and beliefs.
- Managing the flow of the discussion according to the agenda
- Ensuring each person is heard and is protected
 - Parties are expected to argue, accuse each other, and attempt to set each other straight on the facts. The mediator, as the person in charge of the process, will carefully calculate when the parties can express their negative feelings as part of the expression aspect of conflict and when to manage behaviour that disrupts the process.
 - Keep the discussion within established boundaries
 - Protect each party by discouraging foul language and behaviour

If possible, this part of the process should involve less talking from the mediator.

Should the mediator try to determine the truth? No. The mediator need not try to determine the truth or who is at fault. It is more important to focus on LISTENING, for what matters to people and for possible areas of agreement.

NOTES

During this part of the process, mediators must avoid or control:

- Not only the parties' usage of adversarial language but also the mediator's use of language that is adversarial in nature.
- Any disruptive behaviour from the parties.

A mediator must also be mindful of whether he/she is:

- Making assumptions, or judgments (even in thought). [Mediators need to be mindful of implicit bias – refer to earlier notes on impartiality.]
- Interrupting unnecessarily (interruptions from the mediator may disrupt the process and reduce the parties' inclination to be candid and share openly. Interruptions may also be seen as a desire to control the process).
- Glossing over concerns. (The parties have a need to be heard and validated. The mediator has to keep track of everything which has been said, including matters that seem to be 'minor' but are very important to the parties).
- Using language that may be interpreted as partial to one party.

And mediators to avoid/control

First joint discussion

- Adversarial language
- Disruptive behaviour
- Making assumptions, judgments
- Interrupting unnecessarily
- Glossing over concerns
- Language that may be interpreted as partiality

SLIDE 163



SKILL: Encourage information sharing

- “Can you explain _____?”
- “Please tell me more about how you view _____.”
- “Can you give me an example?”
- “Could you describe how you felt when _____?”
- “Juan, can you tell Maria how you?”
- “Maria, maybe you can describe to Juan how...”
- “Is there something you think [the other party or] I do not understand about your situation?”

NOTES

Here are some suggested questions or prompts which encourage information-sharing –

- “Can you explain _____?”
- “Please tell me more about how you view _____.”
- “Can you give me an example?”
- “Could you describe how you felt when _____?”
- “Juan, can you tell Maria how you?”
- “Maria, maybe you can describe to Juan how....”
- “Is there something you think [the other party or] I do not understand about your situation?”

[Illustrate how to use these questions and prompts using specific situations. Trainer can also outline a situation and invite the participants to use the suggested questions or prompts to practice the skill of encouraging information-sharing.]

NOTES

Remember the goal of identifying the interests that underlie each position which was discussed in Module 2?

In the parties' opening statements and during the first joint discussion, the mediator can expect both parties to insist on their own positions. The challenge for the mediator is to move from positions to interests so that it is possible to:

- Increase understanding of the other party's viewpoint (get a sense of the interests, emotions, limitations and capabilities of the other side).
- Make parties understand themselves better (increase awareness of own interests, emotions, limitations and capabilities).
- Reframe the problem (so the parties do not get trapped in their own positions and are able to expand their view).

Here are some suggested questions that may come in handy when identifying interests during the joint discussion:

- "Can you help me understand why that {position} is important?"
- "What concerns you about?"
- "How does affect you?"
- "What do you fear will happen if..."
- "What do you value about?"

SKILL: Moving from positions to interests

- "Can you help me understand why that [position] is important?"
- "What concerns you about....?"
- "How does affect you?"
- "What do you fear will happen if..."
- "What do you value about.....?"

[Illustrate how to use these questions using specific situations. Trainer can also outline a situation and invite the participants to use the suggested questions to practice the skill of moving the process from stating positions to identifying interests. Refer to some techniques in Module 1 on identifying and discovering interests.]

SLIDE 165



SKILL: Reframing

- Assist in identifying the underlying interests of a party who is making a positional statement, or is angry or hostile
- Help identify the positive intent of speaker
- Use neutral, objective language
- Eliminate blame and accusation
- Shift attitude from negative to positive
- Done by re-stating or asking questions to confirm re-statement

NOTES

- In a conversation relating to conflict, the language of parties in conflict will naturally be one-sided and partial, and maybe even toxic, negative or inflammatory.
 - Reframing is the 'process of changing the way a thought is
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-
-
-
-
-

presented so that it maintains its fundamental meaning but is more likely to support resolution efforts.' (Mayer)

- 'It is one of the most important and productive skills in mediation and is one that is difficult to impart and can only really be acquired through experience. Reframing is not something that should be done just for the sake of it, or because it is a favourite skill.' (Charlton and Dewdney)
- Some techniques for reframing –
 - Assist in identifying the underlying interests of a party who is making a positional statement, or who is angry or hostile.
 - Help identify the positive intent of the speaker.
 - Use neutral, objective language.
 - Eliminate blame and accusation.
 - Help shift attitudes from negative to positive.
 - Done by re-stating or asking questions to confirm the re-statement.
- Some complementary techniques to move parties from positions to interests:
 - During the discussion, periodically summarize the parties' interests. First, summarize the interests of one side and then summarize the other side's interests.
 - Emphasize common interests.
 - Present interests as a set of criteria.

Suggested reframing technique

NOTES

The basic techniques involved in reframing (although there are many others) is –

1. Listen then re-state – this is tied closely to the skill of listening. When listening is not done well, re-stating may fall short.
2. Check for confirmation of the accuracy of the re-statement then mention the perceived interest – The trainer should advise participants to refer to some of the suggested questions/lines under the active listening section.
3. Reframe the negative statement (the assertion or position) by naming the unmet interest – this is tied closely to the mediator's ability to identify interests. While listening, the mediator must be able to pick up the possible interests behind the words and, after listening, to confirm if these are accurate. The ability to use neutral language is also needed.

1. Listen then re-state
2. Check for confirmation of accuracy of re-statement then mention the perceived interest
3. Reframe the negative statement (assertion or position) by naming the unmet interest



What to avoid when reframing

- Reframing too quickly
- Changing the essence of the statement
- Repeating without injecting perceived interest
- Avoid over-reframing



NOTES

The mediator must be cautious in exercising this skill as he/she may be—

- Reframing too quickly, (Listen first. During the first joint discussion, parties are encouraged to speak openly. If the mediator attempts to reframe right away, the reframing might not capture the entire message of the speaker and the latter might feel unduly interrupted).
- Changing the essence of the statement. (While reframing involves the removal of toxicity in statements, and while mediators are eager to rephrase language to support resolution efforts,

mediators must not reframe in a way which changes the essence of the statement. The mediator must also respect the language used. Some negative feelings or perceptions may be confirmed as this can validate them without the reframing process becoming unsupportive of resolution efforts).

- Repeating the statement without adding the perceived interest. (Do not reframe, or worse, repeat the statement simply for the sake of doing so. There is a bigger objective for the reframing process – to identify the interest that needs to be addressed and,

as a corollary, to effectively identify the problems that need resolution).

- In addition, avoid over-reframing. 'Over-reframing, however well intentioned, can be irritating to such a speaker; it can be perceived as patronizing as well as creating the impression that the mediator simply didn't understand the meaning of what the person was saying.' (*Charlton and Dewdney*)

[Distribute the Reframing Exercise and the Reframing Exercise Guide to participants and ask them to reframe the statements on the sheet.

Additional/Alternative Reframing Exercises

- If time permits, the trainer can also take the role of a speaker (perhaps giving a sample opening statement) and ask some participants to interject and reframe the words. Trainer must carefully choose a speech that will be 'reframeable' to highlight what the participants need to learn through this process.
- Trainer can take examples 1,2 & 3 from the Reframing Exercise and put the statements on slides (in italics). Trainer can then present the statements to the participants one at a time, showing the

statement first and then showing a reframing of the statement on a following slide (marked with an X) which may not be achieving the goals of reframing to support resolution efforts. Trainer can then ask the participants what does not work in the statement marked with an X. After getting feedback, trainer can then show another slide with a different reframed statement with a check mark. Trainer can get feedback from the participants about how the statement with the check mark could be improved further.]

(SEE ANNEX – REFRAMING EXERCISE AND REFRAMING GUIDE)

SLIDE 168



SKILL: Summarizing, re-stating

- Organise information; bring order to the discussion
- Identify interests of parties esp. mutual interests
- Highlight possible areas of agreement
- Reinforce progress made
- Detoxify language
- Useful when:
 - Discussion is dragging, heated
 - Shifting to next agenda item

NOTES

Another handy skill to have during the first joint discussion is the ability to summarize and re-state. Summarizing and re-stating is useful when:

- The discussion is getting disorganised.
- The parties are arguing in circles.
- The parties are repeating statements.
- The mediator intends to leave one agenda item and move to the next.

By periodically summarizing, the mediator is able to:

- Organise information.

- Bring order to the discussion.
- Identify the concerns (interests) of the parties.
- Point out mutual interests and possible areas of agreement.
- Reinforce any progress made by the parties.
- Bring the discussion to a conclusion before moving to the next topic.

Simulation Exercise 3:

- Take a group break to give out the instructions for the next mediation exercise.
- Divide the participants into groups of three. The trainer will

assign the mediator and the two others will play the role of the parties in conflict.

- Make sure the participants playing the role of the mediator have not yet been assigned a mediator role in previous exercises.
- This exercise will focus on practicing the skills associated with setting the agenda and handling the first group discussion (including necessary skills such as reframing).
- Advise the participants playing the mediator role to give their opening statements quickly and then focus on summarizing the opening statements of the parties. Advise the participants playing the roles of the parties in conflict to make their opening statements quickly to increase the level of challenge for the mediators in relation to setting the agenda and handling the first group discussion.
- The participants playing the roles of the parties in conflict can then observe how the appointed mediators handle setting the agenda and managing the first joint discussion.

(SEE ANNEX – SIMULATION EXERCISE 3: THE CASE OF NICOLE AND MONICA)



1. Mediator's opening statement
2. Parties' opening statements (then mediator's summary)
3. Agenda setting / identification of issues
4. First joint session: clarification, exploration of issues
5. Private sessions /separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

SLIDE
170**NOTES**

'Private sessions (often referred to as "caucus") are held in confidence with each party in the absence of the other. While one party is in private session with the mediator, the other party takes a break. Not all models of mediation include private sessions as an integral or necessary part. Some mediation models,

family mediation in particular, only make use of private sessions as a strategy to be applied in exceptional circumstances rather than as a distinct stage of mediation, with a preference towards dispensing with it altogether.' (*Charlton and Dewdney*)

If joint discussion has momentum (productive), no need to call separate meetings



NOTES

GOALS:

- To see if there is any information that one party wishes to share privately.
- To confirm the interests of a party more specifically.
- To give parties time alone (while the other party is in a private session with the mediator) to think of possible options to raise in the second joint discussion.
- To prepare the parties for the second joint discussion (or whatever subsequent sessions will occur).
- To help the parties regain their composure and re-energize for the next joint discussion.
- To inquire about possible solutions that will be raised in the next session.
- To help the parties recognize their alternatives to a negotiated agreement (BATNA).

SLIDE
171

Goals

Private sessions / separate meetings

- Offer an opportunity for parties to share information privately or for the mediator to confirm their interests
- Alone time for parties to think of possible options to raise in second joint discussion
- Testing of alternatives to a negotiated agreement
- Offer a way for parties to prepare for the next joint discussion
- Offer an opportunity for parties to regain their composure (if needed)



NOTES

When handling individual meetings...

Private sessions / separate meetings

- Inform party of purpose of private session
- Show understanding of concerns but remain impartial
- Keep in mind why you called the separate meeting (refer to goals section)
- Prepare the party for the next joint discussion.
- And...

Tips for handling separate meetings:

1. Assure the party involved that the contents of the meeting are confidential.
2. Inform the party involved about the purpose of the private session (Example: "I wanted to check with you if there is anything else that you would like me to know").
3. Keep in mind why you called the separate meeting (refer to the goals on the previous slide).
4. Show understanding of the party's concerns but remain impartial. (In an individual session, you may show empathy and understanding but be mindful that you are not appearing to support their position or to present yourself as an advocate).
5. Check what you are permitted to say to the other party.
6. Prepare them for the second joint discussion. Discuss what will happen next and persuade them to speak to the other party directly and not make the mediator the message bearer (e.g. "Juan, when we go back to the table, will you be presenting those suggestions to Maria?")

'A private session usually lasts anything between 5 and 20 minutes and sometimes longer. It is important to give both parties equal opportunities in terms of time spent in private sessions.' (Charlton and Dewdney)



NOTES

Keep in mind:

- Private sessions are confidential
 - What is mentioned by Person A must not be revealed to Person B unless they give permission to disclose this information.
 - 'Whatever might be revealed in ensuing sessions relating to the private session will be up to the parties, not the mediator.' (Charlton and Dewdney)
- If there is momentum in the joint discussion, there is no need to call for private sessions
 - Private sessions 'can be deferred when parties have made good progress and, after the exploration and discussion of all issues on the agenda, have begun to generate options, negotiate and table offers. The purpose of the private sessions in such a case is more limited and will focus on making sure that there are no new issues or options and that the parties believe that it is in their interests to continue with joint sessions for their final negotiations.' (Charlton and Dewdney)

...keep in mind: Confidentiality.

Private sessions / separate meetings

- What is mentioned by Person A must not be revealed to Person B unless permission is given to disclose
- At the start of the private session, assure party of confidentiality
- Toward the end of the private session, check what you are permitted to say to the other party

But resist being turned into a messenger or spokesperson



SKILL: Reality testing

- Questions that may test the viability of an option and encourage parties to seek more information or to generate more options
- Questions that may raise doubts about the viability of an alternative and may encourage a party to consider reaching an agreement
- Ideal in separate meetings so parties can more realistically assess a possible settlement without the stress of the presence of other party

The Mediation Process by C. Moore

NOTES

The separate meetings serve as an opportunity to help the parties to recognize their alternatives to a negotiated agreement. This is also the time when you can help the parties to realize the strengths and weaknesses of their alternatives, and encourage them to give the settlement options a chance.

[Refer back to the notes on alternatives to a negotiated agreement in Module 2.]

Optional exercise: The trainer can invite some of the participants who played the roles of parties in conflict in previous exercises to speak to the trainer (acting as a mediator) as if they were in a private session. The participants can then outline possible options and the trainer will put forward potential opposing views, reality testing the options which have been suggested.

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4. First joint session: clarification, exploration of issues
5. Private sessions / separate meetings (optional)
- 6a. Joint session: option generation & evaluation
- 6b. Joint session: negotiation & problem solving
7. Mediation outcome

SLIDE
175

NOTES

- 'There are no hard and fast rules that apply to these final stages of mediation. What happens at the negotiation stage, which precedes the outcome, depends on what progress has been made thus far. ...' [There are mediations that] 'resolve quickly after a reasonable exploratory time in the first joint session followed by the first private sessions. In

such an event, [this second joint session] may just be a wind-up session making sure that there are no misunderstandings pending the final agreement.' (Charlton & Dewdney)

Simulation Exercise 4

- Take a group break to give out the instructions for the next mediation exercise.



- Divide the participants into groups of three. The trainer will assign the mediator and the two others will play the roles of the parties in conflict.
- Make sure the participant playing the role of the mediator has not been assigned a mediator role in previous exercises.
- In this exercise, the mediators will conduct private sessions/ separate meetings with both parties in preparation for a second joint session (which will be conducted later on).

(SEE ANNEX – SIMULATION EXERCISE 4: SIBLINGS ANA AND KRISTIN)



NOTES

Goals:

- To encourage the parties to speak for themselves and to work out mutually-acceptable solutions.
- To encourage the parties to generate options which could address their issues and concerns.
- To encourage the parties to jointly solve the problems on the table.

‘This stage, following the private sessions, is the point of transition from discussing the past to solving the present problems and dealing with the future. The parties may also have generated a number of options.’ (*Charlton and Dewdney*)

- [Remind the participants of the core values of mediation, particularly the value of self-determination].

Goals

Second joint session

- Generation of options that may address issues and concerns
- Parties encouraged to jointly solve problems
- Parties motivated to speak for themselves and work out mutually acceptable solutions

SLIDE
176



Second joint session

- FIRST, generate ideas and options for every issue or agenda item
- THEN, after all ideas generated, start discussing each
- Separate meetings may be called if challenges are met in the course of discussion

Mediators, try to control yourself
from suggesting solutions

NOTES

- As a general guide –
- FIRST, generate ideas and options for every issue or agenda item.
- THEN, after all ideas have been generated, start discussing each item.
- Separate meetings may be called if challenges are met in the course of the discussion.

- [Refer back to the points in Module 2 on negotiation, particularly in relation to the generation of options. And always keep in mind: mediators must try to stop themselves from suggesting solutions.]

SLIDE
177

NOTES

Mediators are advised to control themselves and avoid suggesting solutions. Why?

- Controlling oneself and not offering suggestions implies that you trust that the parties understand their own situation better than you do.
- If the mediator does the thinking, the parties may stop thinking for themselves.
- If the solution comes from the parties, they will be more committed to making it work.
- If the mediator offers a suggestion (even if it's a tentative one), the parties may feel uncomfortable about turning it down and saying no to the mediator.

Remember the discussion earlier about self-determination and mediator impartiality?

- [Advise participants to constantly remind themselves of the importance of self-determination and mediator impartiality.]

Why?

Second joint session

- Parties might stop thinking for themselves
- If solution comes from the parties, they will be more committed to making it work
- If the mediator offers suggestions (even if tentative), parties may feel uncomfortable saying no to the mediator
- Controlling suggestions implies trust

Mediators, try to control yourself from suggesting solutions

SLIDE 178



NOTES

SKILL: Encouraging option generation

- “What can you do to help resolve the issue?”
- “What might work for you?”
- “What other things can be tried?”
- “Is there some way we can meet both Jose’s need for _____ and Maria’s need for _____?”
- Two-solution rule
- Brainstorming criteria of a good solution

- The idea behind relevant points is essentially the same as “generating options” in Module 2 (Negotiating a Conflict).
- These are some sample questions
 - “What can you do to help resolve the issue?”
 - “What might work for you?”
 - “What other things can be tried?”
 - “Is there some way we can meet both Jose’s need for _____ and Maria’s need for _____?”
- All the questions above are useful for generating a healthy brainstorming environment.
 - When brainstorming, get numerous suggestions before discussing the merits of each one.
- Other techniques include:
 - The two-solution rule (ask each party to come up with at least two suggestions they personally could live with).
 - Brainstorming the criteria of a good solution (if a specific solution is elusive, generate criteria to serve as the basis of a good solution instead). [The trainer can refer to notes in Module 2 on developing criteria and convey this to the participants.]

SLIDE 179

When discussing the options which have been generated

Second joint session

- Evaluate strong and weak points of each option
- Discourage parties from dismissing ideas too quickly
- Check how a proposed solution can solve an issue and how it meets the interests of each
- Review resources and support needed to make solution feasible

NOTES

After all possible options have been generated by the parties, they can proceed with discussing each option. This discussion may involve:

- Evaluating the strong and weak points of each option.
- Discouraging the parties from dismissing ideas too quickly.
- Checking whether a proposed solution can solve a particular issue and whether it meets the interests of each party.
- Reviewing the resources and support which are needed to make a solution feasible.

[If time permits, give examples to illustrate some of these points.]

SLIDE
180



SKILL:

Expanding ideas

- Ask “What if” questions
- Ask each person to consider the situation from a different perspective
- “What would make this idea more agreeable or workable for you?”

NOTES

The parties need not be limited solely to the options they have generated. The parties can choose to combine options from their list or expand the ideas being considered –

- Ask “What if” questions. [Examples: What if the amount Party A is asking for is paid, what are the advantages and disadvantages of paying that amount? What if Party B is given full custody of the children, how do you think the children will react? What if the house is sold immediately, how do you think will everyone adjust?]
- Ask each person to consider the situation from a different perspective. [Example: “If you were an 8-year old child, how would this proposed solution look to you?”]
- Ask “What would make this idea more agreeable or workable for you?” to further expand ideas and options.

Suggested techniques to encourage expansion of initial ideas

Second joint session

- Evaluate strong and weak points of each option
- Discourage parties from dismissing ideas too quickly
- Check how a proposed solution can solve an issue and how it meets the interests of each
- Review resources and support needed to make solution feasible

SLIDE
182

NOTES

Some techniques to encourage the expansion of the initial ideas are:

- Evaluate the strong and weak points of each option.
- Discourage the parties from dismissing ideas too quickly.
- Check whether a proposed solution can solve an issue and whether it meets the interests of each party.
- Review the resources and support which are needed to make a solution feasible.



1. Mediator's opening statement
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- 6b. Joint session: negotiation & problem solving
7. **Mediation outcome**

SLIDE
183**NOTES**

Arriving at agreement/s or a mediation outcome is technically part of the second joint discussion stage.

The mediator has the option to call separate meetings if challenges are encountered in building an agreement.

Continuation of Simulation Exercise 4

- Using the same roles which were used in the private sessions/separate meetings in the first part of this exercise, instruct those playing the mediators to conduct the second joint session part of this simulation exercise.

- Remind the participants not to force an outcome or a solution but to focus on carefully carrying out the process of generating options.
- [NOTE: Based on timing and preference, trainer could, alternatively, instruct the participants to proceed to the second joint session immediately after the private sessions/separate meetings, or opt to conduct the second joint session after the discussion about the 'Mediation outcome'.]

SLIDE
183

Mediation outcome (Building an agreement)

NOTES

Remember that:

- The building of an agreement is technically part of the second joint discussion.
- The agreement is developed after options have been generated, evaluated and refined.
- Separate meetings/private sessions may be called if challenges are met in building agreement.

If no agreement is reached, is the mediation a failure? Not necessarily. Mediation is about facilitating communication. If the mediator has been able to get the parties to talk and understand where each party is coming from, something has still been achieved. Parties get to see each other in a new way compared with their perspectives prior to the conflict.

- Technically part of second joint discussion
- Agreement built after options are generated, evaluated and refined
- Separate meetings may be called if challenges are met in building agreement

SLIDE
185

Proposed sequence in building agreement

Mediation outcome
(Building an agreement)

1. Select an issue from the agenda
2. Generate options
3. Evaluate, refine options to build agreement
4. Write tentative agreements

NOTES

- There is no strict formula to follow when developing an agreement but trying this sequence first may be helpful before the mediator adjusts his/her approach –
 1. Select an issue from the agenda.
 2. Generate options.
 3. Evaluate and refine the options to build agreement.
 4. Write tentative agreements.
- (This sequence can be followed after finishing the first joint discussion of all the agenda items).
- Then, towards the end, the mediator can review the tentative agreements and double-check with the parties if they are happy with the agreements when taken in totality.
- If it isn't possible to reach agreement on an agenda item, the mediator can put it aside and work on another item

SLIDE
186

Suggested questions to test agreement

Mediation outcome (Building an agreement)

- “Is this agreement acceptable to both of you?”
- “May I confirm these are the things you have agreed?”
- “Have we covered everything?”
- “Is there anything in these draft solutions that makes you feel uncomfortable?”

NOTES

Part of the mediator's duty is to double-check with the parties whether they have truly understood the agreement and whether it represents the most satisfactory outcome for them given the circumstances.

Some sample questions which can be useful are –

- “Is this agreement acceptable to both of you?”
- “May I confirm if these are your agreements?”
- “Have we covered everything?”
- “Is there anything in these draft solutions that makes you feel uncomfortable?”

Annexes



Annexes



Questionnaire for Participants

1. Where have you come from to attend the course?

(Name your state/province and city/municipality)

2. Please give two examples of interpersonal conflicts you have encountered (whether you were one of the parties in conflict or you tried to resolve conflict between others)?

(Please write descriptions of the two conflicts. Examples of conflicts you may want to cite are those between work colleagues, friends, family, community members or parties who entered into agreements. Your descriptions need not be very detailed and please change the names of the parties involved to maintain confidentiality.)

3. What is your interest in conflict resolution or mediation?

(Please explain why you want to be part of the training course)

4. Have you attended similar training courses on this subject before?

(Briefly describe the training course/s you have attended. Have you been able to apply the knowledge and skills you gained?)



Evaluation Form

Title of the Training - * to be filled out by trainer/s or training organisers

Date: _____

Location: _____

Name: _____ (optional)

Position: _____ (optional)

Name of your Organisation: _____

Please indicate your response to the points below by shading the relevant circle.

Strongly Agree Agree Neutral Disagree Strongly Disagree

1. The training course met my expectations

2. I will be able to apply the knowledge I have learned

3. The training objectives for each module were clearly identified at the start and followed

4. The content was organised and easy to follow

5. The trainer was knowledgeable

6. The quality of instruction was good

7. Participation and interaction were encouraged and beneficial

Strongly Agree Agree Neutral Disagree Strongly Disagree

8. Adequate time was provided for questions and discussion

9. How do you rate the training course overall? (Please circle the word corresponding to your choice)

Excellent Good Average Poor Very Poor

Please answer the questions below:

10. Which aspects of the training course could be improved?

11. Was anything missing from the training course?

12. What did you find most useful?

13. What did you find least useful?

14. What are your suggestions for future training courses?



Sample Schedule

Conflict Resolution: A Foundation Course

DAY 1	
4:00 pm - 7:00 pm	Arrival
7:00 pm - 8:00 pm	Dinner and Welcome Programme
DAY 2	
7:00 am - 8:00 am	Breakfast
8:00 am - 8:30 am	Introduction, Overview of Session and Icebreaker
8:30 am - 12:00 noon (snack break at 10am)	Module 1 - UNDERSTANDING CONFLICT
12:00 noon - 1:30 pm	Lunch
1:30 - 3:00 pm	Continuation of Module 1
3:00 - 3:30 pm	Break
3:30 - 6:00 pm	Module 2 - NEGOTIATING A CONFLICT
6:00 - 7:30 pm	Dinner
DAY 3	
7:00 am - 8:00 am	Breakfast
8:00 am - 12:00 noon (snack break at 10am)	Continuation of Module 2
12:00 noon - 1:30 pm	Lunch
1:30 pm - 3:00 pm	Module 3 - MEDIATING CONFLICTS
3:00 - 3:30 pm	Break
3:30 - 6:00 pm	Continuation of Module 3
6:00 - 7:30 pm	Dinner
DAY 4	
7:00 am - 8:00 am	Breakfast
8:00 am - 12:00 noon	Continuation of Module 3 Exercises from Module 3
12:00 noon - 1:30 pm	Lunch
1:30 pm - 3:30 pm	Continuation of Module 3 Exercises from Module 3
3:30 - 5:00 pm	Break Give out Evaluation Forms
5:00 - 5:30 pm	Awarding of Certificates
5:30 - 7:30 pm	Dinner

Conflict Recall Sheet

Recalling conflicts that I personally encountered and experienced



This is your personal copy. Not to be submitted.



Reframing Exercise

Wife (about her husband): “How can he even say that he is a good father? He smokes around the children!”

Daughter (in conflict with her father): “He never listens to anything I say!”

Member of staff (in conflict with their boss): “I already showed him in more ways than one – short of shouting in his face that he is harassing me – that his cozy behaviour and filthy language around me is unacceptable. It’s downright unprofessional and I won’t tolerate it.”

Wife (about her husband): “He just works, comes home to eat, and goes to bed. He doesn’t care about playing with his children.”

Employee (in conflict with co-workers): “I’m upset that only menial and insignificant chores are assigned to me at work. Excuse me, but I have an MBA degree you know!”

House owner (to tenants): “This house is a pig sty!”

Youngest child (in conflict with their siblings): “My sisters and brothers decided to switch off my mother’s life support system without even consulting me or waiting for me to arrive! She is my mother too, you know.”

Husband (about his wife): “I work very hard, day and night, at the expense of not seeing my children – only to see the woman I devoted my life to blatantly cheating on me with my best friend!”

Reframing Exercise Guide

Example of reframing statements/questions:

- “So, it is important to you that ...”
- “It sounds like _____ is important to you.”
- “What I understand you are saying is ...”
- “So, you value _____”
- “What you are concerned with is...”
- “You want to be seen as _____”
- “What you need to see here is...”
- “Your goal would be to...”

Some common interests

- | | |
|-----------------|-------------------|
| Acceptance | Freedom from Fear |
| Acknowledgement | Fulfillment |
| Accountability | Independence |
| Achievement | Knowledge |
| Affection | Love |
| Appreciation | Privacy |
| Belonging | Recognition |
| Clarity | Respect |
| Commitment | Responsibility |
| Competence | Safety |
| Consistency | Security |
| Efficiency | Trust |
| Fairness | Understanding |



Simulation Exercises

Simulation exercises can be tailored to reflect the type of conflict concerns the audience find most relevant. Thus, the exercises which are found in this section serve as general samples of simulation exercises. The trainer is encouraged to reconfigure the samples to match the needs and concerns of the target audience. This means he/she could include, change, and entirely reinvent characters and storylines to accommodate and adapt to local contexts in order to increase realism in relation to applying conflict resolution techniques. The questionnaires completed by the participants before the course will provide further information about the types of conflict they have experienced.

All of the simulation exercises require breakout sessions. Participants will be grouped together, and will be given time and space to do the exercises. Simulation exercises are role play exercises which will mostly involve three characters: two (2) parties in conflict and one (1) mediator (except for Simulation Exercise 1). It is important the roles are rotated among the participants each time so they play and experience different roles during the course. After each breakout session, the groups will reconvene to share insights, outcomes and their experiences from the activity.

Participants will be given common instructions, or the main plot of the sample conflict. Those assigned the role of the conflicting parties will be given confidential instructions, which are not to be shared with anyone else within the group. From there on, the participants will play their respective roles and challenge the participant playing the mediator to apply the lessons learned so far in the course.

To make the activity as interesting and as realistic as possible, the trainer should encourage the participants to internalize their designated roles and act out their characters as convincingly as possible.

This manual contains six (6) sample exercises, four (4) simulation exercises that are utilized in the modules, and two (2) additional simulation exercises included for additional reference.

Simulation Exercise 1: Richard and Dawn: The Separating Spouses

Simulation Exercise 2: The Case of Nadine and Kathrine

Simulation Exercise 3: The Case of Nicole and Monica

Simulation Exercise 4: Siblings Ana and Kristin

Additional Simulation Exercise 1: Saida/Said – Sittie Conflict

Additional Simulation Exercise 2: Risqah – Anna Conflict

Simulation Exercise 1

COMMON INSTRUCTIONS

RICHARD & DAWN: THE SEPARATING SPOUSES

Spouses Richard and Dawn, who have been married for 15 years, have finally decided to separate after the turbulent last five years of their marriage. They have three children: John (11 years old), Ally (8 years old) and Emmanuel (5 years old). The three kids are a tight bunch and they consider each other to be best friends. After trying counselling twice (once with a church spiritual director and later with a psychologist), and after careful consultation with close relatives and friends, they have decided to call it quits. They decided to firm up plans for filing a petition for divorce (or alternatively, annulment or legal separation depending on the grounds available to them under the law). In advance of this legal course of action, Richard and Dawn wanted to deal with the many civil and administrative matters related to their marriage (e.g. the separation of property, custody of the children, plans after separation).

Richard and Dawn both still live in the family home, even if they are estranged in many ways. However, the children do not have even the slightest hint of their parents' separation plans since the spouses continue with their family activities to ensure a normal life for the kids. The family home was constructed seven years ago and monthly payments to the bank (Php50,000 per month) have to be completed in the next three years. While the estimated total cost of the purchase of the lot and the construction of the house is Php10 million, the current estimated market value of the house and lot (based on a guess made by Dawn's sister who is an estate agent) is approximately Php22-26 million after commercial improvements in the surrounding community. This estimate excludes expensive furniture and paintings in the house.

As a famous neurosurgeon in the Philippines, Richard's work has been the main source of income for the family since the marriage began. Dawn had a successful career in the corporate world prior to the marriage (as one of the top finance executives in the banking industry) but she decided to become a full-time homemaker three years after they got married when the spouses focused on having children. Six years ago, while pregnant with Emmanuel, Dawn started making jewellery as a hobby. This later evolved into a business in which she partnered with Jed (her best friend) and Antonio (her husband's best friend). Richard initially funded the business to support his wife who was starting a



new career in a different field. Dawn's designs quickly gained popularity and she developed a loyal clientele in the country, particularly famous public personalities. Three years ago, she started exporting her products.

In addition to the family home, the spouses also have a mixture of investments (bank accounts, stocks, mutual funds) which have an estimated value of Php10-13 million (and possibly even more as the financial market is behaving unusually). Having been a financial executive in her previous career, Dawn has managed the family money well and was even able to generate a decent profit (through their investments) out of the income brought home by her husband. Despite personal differences, Richard and Dawn (having been the best of friends for a very long time) consider themselves to be effective partners in handling the family's affairs.

Now that the spouses are separating, they are confronted with the necessity of discussing uncomfortable matters – including money, plans for the children and all the other plans associated with moving forward as separate individuals. They have decided to sit down and explore the points they need to negotiate, and maybe even come to an agreement (even if it's a tentative one) before having a formal meeting with their lawyers and maybe a mediator if necessary.

Simulation Exercise 1

CONFIDENTIAL INSTRUCTIONS for RICHARD

(Keep instructions confidential even after the exercise)

Richard initiated the discussion about separating and their decision to seek a legal separation. While he still loves Dawn, he cannot live with the idea that his wife cheated on him with his best friend Antonio. He felt even more betrayed because he funded Dawn's business and invited Antonio to become a business partner with her, while trusting that Antonio would look after his wife as she started a new business endeavour.

Richard is still unsure how to deal with the children. Since Dawn is a full-time mother and Richard has a very busy schedule as a neurosurgeon, he knows that the children are attached to their mum. But Dawn cannot deny that the two boys always look forward to all the activities they do with their father, especially when it comes to sports. While attached to her mother, Ally is also a daddy's girl. Richard will be heartbroken if the kids are taken away from him. He wants to share time 50-50 in relation to the children, whether every other week or every other month. He is afraid that Dawn will remove him from the lives of their children as a form of revenge for his decision to separate.

Richard wants to sell the family home and divide the proceeds fairly. He does not want the burden of shouldering monthly payments moving forward, knowing they will separate soon. The house is also associated with bad memories for him since it is where Dawn has her 'home office'. Richard believes the house was 'witness' to Dawn and Antonio's illicit relationship. He feels the betrayal all happened in the house which he paid for. Dawn's business is also doing well so Richard feels she has to contribute an equal share of future expenses associated with the children.

Richard wants to get what is fair in relation to the finances. His definition of fair is *at the very least*, an equal 50-50 arrangement. But Richard would *prefer* to get *more* because he was obviously the one who brought in regular income for the family. He says that he sacrificed so much time away from the family to ensure that his career would be successful and the family would be financially secure. He knows that Dawn is used to a good life and he did not want Dawn to regret giving up her career at any time during the marriage.



Richard is aware of their financial investments but does not want to disclose details. He states their value to be approximately Php10-13 million. Whatever arrangement he and Dawn make about these investments, he does not want this reflected in any public record to avoid tax consequences. Dawn always prepares an end-of-month financial status report which reflects their profits. Trusting (and, in fact, heavily dependent on) Dawn's financial management skills, Richard has never bothered to look at the details of the status reports but he acknowledges that profits have been generated through the years. He has a feeling that Dawn will ask for a percentage of the profits earned (to punish him for initiating the separation) but he feels that no percentage of the profits should be given to her because he provided well for Dawn throughout the marriage and she had so much freedom in relation to spending money for her personal needs and wants. He also says that, since he funded Dawn's business, this investment should be considered the 'compensation' for the work Dawn has put into the management of the family's finances.

Richard says he wants the separation to happen soon because:

He is already developing a relationship with his biking partner, Beatriz (a lawyer) and he does not want her to be dragged into the drama and be exposed to nasty rumours among her peers. (He adds that he only became friends with Beatriz after learning of his wife's affair with Antonio and the relationship has only become more 'romantic' in the past year).

Word is already going around that Richard is having a relationship with Beatriz and he is afraid that if the divorce does not happen soon, his flawless reputation as a medical professional (as well as the fact that he is publicly recognized as a loyal husband and father) will be ruined.

Given his concerns, he wants the separation to happen as smoothly and as quietly as possible.

Simulation Exercise 1

CONFIDENTIAL INSTRUCTIONS for DAWN

(Keep instructions confidential even after the exercise)

First, Dawn wants to be sure she gets physical custody of the children. The children are used to having her around and all of them are attached to her. Dawn wants principal custody of the children so she can make future decisions in relation to them, only needing to consult Richard on major decisions such as where they live and where they study etc. An arrangement involving regular visits and occasional sleepovers with their father is agreeable but she prefers the children to be living with her.

Dawn wants to get what is fair. For her, fair means getting a percentage of the 'profits' she made after investing the money earned by Richard. She says that his money would not have grown that much without her financial management skills. If she had been managing his money over the 15-year period as a finance professional, she would have charged 15%-20% of the profit. She feels she should get fair compensation for the 'work' she has put in as a financial manager and, beyond that amount, she is happy to split the balance 50-50. However, she also wants to clarify arrangements about who will cover future recurring expenses for the children (school, allowance, living costs). She wants Richard to continue to cover them because Dawn is still in the process of re-establishing her career. She is no longer established in the banking industry because of the sacrifices she made for Richard and the family, and it is only fair that Richard continues to shoulder the expenses until such time as she recovers her position as a financially independent person.

Dawn also wants to keep the family home because the children are already comfortable in it as it is near their friends and school. She is also sentimental and wants to keep the home to preserve the good memories of the family. (To make the children move to another house will add to the pain of the separation, plus she and Richard have not yet told their children about the separation and they are both unsure how to do that). Dawn adds that she has invested a significant amount of her time and love in building and decorating the house, and selling the house will waste all these efforts. Dawn also thinks that the value of the property may still appreciate in the next five years as developments



in surrounding areas continue to boom. She believes that the family home remains a good financial investment.

Dawn acknowledges she made mistakes which have led to their separation as spouses. She developed a 'close relationship' with Antonio because she felt abandoned by Richard. She is concerned that Richard will exploit this 'relationship' as the basis for the separation during legal proceedings and, on record, it will appear that she is the villain. She does not want the public record to show that she had extramarital relations with Antonio since she has already apologised and paid for it dearly. Dawn feels bad that Richard is initiating the separation and is pointing to her "faults" as the basis for the separation. She does not want any court record to state that she is the party at fault because of the fear that her children can access these records (even if they are confidential) and they will blame her for the separation. Since Richard discovered her brief affair, Dawn has already cut ties with Antonio. She still wants to make the marriage work but Richard has been extremely uncooperative. Worse, Richard has started having an affair with a lawyer (Beatriz). Dawn is certain that they are already having sexual relations as they often go on weekend getaways, supposedly to pursue their hobby of biking. Richard has not confirmed this relationship. Dawn insists that, while she has faults, much of the fault for the separation is Richard's and he continues to act in a way which consolidates the decision to separate.

Dawn is angry and she is considering filing criminal charges against Richard and his mistress. She may even file a complaint against Beatriz so she loses her license as a lawyer. However, her friends are discouraging her from doing so because this will certainly cause family conflict and possibly have a negative effect on her relationship with her children.

Simulation Exercise 2

COMMON INSTRUCTIONS THE CASE OF NADINE AND KATHRINE

Nadine and Kathrine are co-workers in ABC Construction, one of the top construction companies in the country. Kathrine is a newly-promoted Senior Engineer and Nadine is a newly-hired Associate Engineer.

Kathrine is the most admired engineer in the company for surpassing most of her male peers in getting promoted within the company and for closing a major deal with a resort development company. When she was hired in July 2015, Nadine was immediately assigned to Kathrine as one of her technical staff on the resort project and Nadine, as a new graduate who recently passed the engineering exam, was easily impressed with Kathrine as a boss.

The office noticed that Nadine and Kathrine always hung out (e.g. having lunch together, having coffee after work). However, after seven months of work in the firm, Nadine became noticeably aloof and distant from Kathrine. It was also noticeable that Kathrine became very critical of Nadine's work during project meetings.

Sometime in April 2016, Kathrine and Nadine had a major fight in a meeting where the Assistant Managing Director was present. This serious argument at the meeting resulted in Kathrine and Nadine shouting at each other and Nadine broke down. Nadine cried and said to Kathrine, "I never want to work with you again" and walked out of the meeting.

The Assistant Managing Director instructed you, the Head of HR, to call in both Kathrine and Nadine and mediate their disagreement.



Simulation Exercise 2

CONFIDENTIAL INSTRUCTIONS FOR NADINE

(Keep instructions confidential even after the exercise)

Even before graduation, you were set on getting a job at ABC Construction, one of the more prestigious companies in the country. Knowing that there are only a few female engineers in ABC, and having consistently maintained a spot in the top three of your year at university, you felt you stood a strong chance of working at ABC. You have set your mind on building a solid career at ABC Construction and on reaching Senior Engineer level in five years (the average time for a junior engineer to reach that level is seven to eight years). You are ambitious, focused and determined – just as you were at university.

When you started at ABC, you were assigned to the team of the newly-promoted Kathrine who was then the star engineer. As a newcomer, you quickly admired Kathrine because of how fast she rose from the ranks and how successful she has become in such a short time. You also started treating her like your sister since you do not have a sister and you never had any close female cousins or friends. You also knew that Kathrine had quickly seen that you were a very promising engineer with a lot of creative ideas. While, at first, you and Kathrine often had lunch out or coffee together to discuss work, later on you were going out socially. She even often joined you for your personal engagements including family occasions, and she started to become very close to your brother Daniel. You were happy because you finally had a mentor and a sister in one person, and she got along well with your family. She is practically family. (You were even secretly wishing Kathrine and Daniel would end up together so she can officially be your sister). You did not tell anyone at work that you often invited Kathrine to family occasions and you were always together because you were afraid that people would spread rumours of favoritism and that might jeopardize your career in the company.

But around February 2016, you felt Kathrine suddenly became distant. You have hardly had lunch or coffee together since then. And then you noticed that she became increasingly critical of your work. In several meetings prior to the April 2016 meeting, Kathrine openly criticized your work in the presence of the rest of the team and you were severely embarrassed on all those occasions because Kathrine had previously always praised your work.

It is only after you learned that Kathrine liked Daniel but was turned down by your brother (who started dating another girl named Jasmin) that you quickly started to realize Kathrine's flaws – that she is a 'user' as she was only trying to be close to you so she could be closer to your brother: that she has been using your creative ideas (which you shared when you were with her) and taking credit for them; that she is not really the most brilliant engineer among her peers but she got promoted easily because she was a good speaker and a charmer who can easily win the attention of clients. You didn't notice these things before because you adored Kathrine and really wanted to have a sister in her. Now, you feel equally that you were a victim of Kathrine's charm, and you were cheated and used by her. When Kathrine's attitude changed, you started to keep things to yourself and not share all your ideas with her because you didn't want her to take credit for your work.

At the April 2016 meeting, you presented a new idea that you had not discussed with Kathrine earlier and Kathrine suddenly got mad. She shouted at you, criticized your work and said other things against you about your supposed "incompetence" at work. You are afraid that this incident will jeopardize your career but you are determined to clear your name. However, you are trying to avoid this thing being blown out of proportion because you are focused on saving your career. You also want Kathrine to publicly apologise for shaming you at the meeting and you also want to ensure that you continue to be part of the major projects handled by the team. You are afraid that you might be removed from Kathrine's team because of the incident but most high profile clients are assigned to her team and your exposure to those clients will be crucial for you to be noticed professionally – not only in the company, but in the entire engineering industry.



Simulation Exercise 2

CONFIDENTIAL INSTRUCTIONS FOR KATHRINE

(Keep instructions confidential even after the exercise)

You consider yourself to be one of the most outstanding and dedicated engineers at ABC Construction. You are determined to become a Partner in the firm in two years' time and finally get a substantial share of the profits of the firm. By then your younger brother will be in medical school and you need the additional income so you can afford all the expenses he will incur to become a surgeon. You have been heavily focused on work and your hard work has been rewarded as you were promoted ahead of your male peers in ABC. You secured many new clients and you are now handling a strong team which is assigned most of the firm's high profile clients.

Nadine was assigned to your team in July 2015. Since Nadine is a new graduate and was known to be an excellent engineering student, you really wanted to have her on the team. You always wanted fresh and innovative ideas in your team. In her first few weeks at work, you also noticed that Nadine is a focused and determined engineer just like you were when you started. Since you are newly-promoted, you also wanted to start playing the role of a career mentor. And since Nadine is one of the most promising new recruits, you wanted to guide her professional development closely as a way of giving back. You noticed that Nadine was starting to be 'too clingy and too friendly' with you but you chose to ignore that because you felt it was to be expected of younger engineers who are looking for people to admire at work. You treated her like a younger sister so you spent more time with her, not only to trade ideas about work but also to guide her on life matters.

Nadine was not the most stellar performer among the junior engineers but you believed that she had the strongest determination and willpower among her peers. She also has the most creative ideas but her minor weakness is in the execution of her brilliant ideas. So you often have lunch out or coffee with her to use that as time to train her -- to critique her work and to develop her ideas further.

You two became very comfortable spending time with each other and you welcomed her presence since you had broken up with your boyfriend when he was working overseas more than a year before. On several occasions, Nadine invited you to family gatherings where you met her brother Daniel. You got along very well with Daniel, who looked and talked very much like your ex-boyfriend. Admittedly, you developed a special liking of Daniel because he reminds you of your ex-boyfriend who you still love. Sometime in February 2016, Nadine invited you to a family occasion where she started introducing you to friends as her “future sister-in-law”. It felt awkward so, after that, you started avoiding her. You stopped inviting her for lunch and coffee and limited all discussions about work to those which took place during official meetings. (Naturally you had to do your critique of her work at official meetings and no longer during your private lunch or coffee meetings).

At the April 2016 meeting with the Assistant Managing Director, you were surprised that Nadine proposed an entirely new idea to the group without clearing it with you. You were consequently furious because that caught you off-guard and her idea may cause the failure of the team's project proposal. You raised your voice at her and tried to reprimand her but she did not stop. She continued on as if openly disobeying you in front of the team and the boss. You were put on the spot and significantly embarrassed. Her behaviour reflects on you as a team leader and you are worried that, if this continues, your desired promotion in two years' time might not happen. You don't want this issue to become bigger because it is a work distraction and your team has a lot of upcoming deadlines to meet. Nadine plays a crucial role in many of the projects that are due for submission and you cannot afford to lose her from the team. However, you do not want any more awkward encounters with her. You also want her to do something to retract her bad behaviour at the meeting so that people will not lose their respect for you. The respect of your work colleagues has been important to you since you started and you do not want Nadine, a newcomer, to trample on the respect you've earned. You want an apology, among other things.



Simulation Exercise 3

COMMON INSTRUCTIONS THE CASE OF NICOLE AND MONICA

Nicole and Monica are work colleagues at Hotel Love. They are Senior Account Executives whose main work is to bring in clients for the hotel. Nicole started her career at Hotel Love after she graduated more than five years ago. Nicole and Monica became good friends after Monica joined the hotel two years ago on a lateral transfer from Faith Hotel. They got along very well because of their common interest in reading novels and jogging every weekend. Nicole and Monica are among the top performing Account Executives and they are rumoured to be the top two candidates for a promotion to become a Junior Manager.

Nicole and Monica were assigned to a special project led by Mr. Santos (one of the current Junior Managers in the hotel). They were given the task of putting together a project proposal for the XYZ Group of Companies, one of the biggest business conglomerates in the country. This group is celebrating its 20th year anniversary with a month of events which include the holding of a big regional conference in Manila. The project proposal, if approved by the client, will potentially be the biggest revenue-earner for the hotel in 2016. In one of the final meetings relating to the project proposal, which was held on the 10th February (two weeks before the presentation of the proposal to the client), Nicole and Monica engaged in a shouting match while Mr. Santos stepped out to take a phone call. The shouting was overheard by most of the people outside the conference room. When Mr. Santos was about to head back to the conference room, he heard Monica screaming and Nicole stormed out of the room and slammed the door loudly.

Since Mr. Santos is due to leave the country for three days, he has ordered the Head of Human Resources to mediate between Monica and Nicole to make sure that all will be well before he returns.

Simulation Exercise 3

CONFIDENTIAL INSTRUCTIONS FOR NICOLE

(Keep instructions confidential even after the exercise)

You consider Monica to be one of your closest friends at the hotel. You confide a lot of things in her, including your occasional gripes about how the hotel is being run. You say these things to her in confidence as you trust that she will keep them secret.

While you know Monica is a strong contender for the promotion to Junior Manager, even without being biased you also know that, because of your longer service at Hotel Love, you are likely to get the promotion.

This special project to put together a proposal for the XYZ Group is very important to you because you know its success will guarantee your promotion to the managerial position. In any case, if the hotel gets this account, you and Monica will both get significant commissions and you are both likely to rise rapidly in your careers.

You are not worried that your friendship will be affected by this healthy competition as you know that Monica will also be promoted soon after you.

You have always treated your friendship with Monica as distinct from your relationship at work. If work matters are an issue, you are able to set aside your personal relations with Monica.

In the 10th February meeting, you got into a heated argument with Monica about certain details of the special project. Monica was insisting on taking another part of the project presentation as she claimed to be more familiar with the topic of “handling conferences”. You disagreed. Besides, you were hesitant to give that part of the presentation to her because it is one of the more ‘meaty’ parts of the presentation and you have been preparing for it since the beginning of the project. You were surprised by Monica’s belated but insistent suggestion and you felt you were being sidelined in a project which you practically put together.



You also felt that Monica was involved in ‘sabotage’ in order to try to take the biggest role in the presentation in advance of the upcoming promotion.

You had noticed that Monica’s behaviour towards you had changed since the beginning of this year – that is, since last year’s December awards where she received the “Most Outstanding Account Executive Award of the Year”. During the awards night, she was being teased that she might be up for promotion to manager soon and she seems to have taken the teasing seriously. You were not threatened by her because you won that award for three consecutive years prior to last year.

Now your main concerns are: to ensure the project proposal is executed perfectly and successfully, and Hotel Love gets the account; to be acknowledged for all the work you have done on the project so it will be factored into the deliberations for the promotion; and to maintain your friendship with Monica – not only because you really value your relationship with her but also (on a more selfish level) because you know Monica is privy to many of your gripes about the hotel and she might use all those secrets you’ve shared to your disadvantage.

Simulation Exercise 3

CONFIDENTIAL INSTRUCTIONS FOR MONICA

(Keep instructions confidential even after the exercise)

You consider Nicole to be a good friend, maybe your closest friend in the hotel. She confides a lot of things in you, including gripes about how the hotel is being run. You find all these gripes about some of your work superiors very amusing as you share most of her sentiments (about which people think they are above others, think a lot of themselves or are too close to each other). But, since you are a newcomer, you feel you cannot say much about your work superiors because you have not had much experience of being with them. Besides, you cannot really trust Nicole too much and anything you say might be held against you. You want to keep things to yourself and not trust or disclose much information to others as you were betrayed by a co-worker at your previous job and learned not to be too trusting.

You know that Nicole is the strongest contender for promotion to Junior Manager and, unless she commits a major blunder, you are certain she will get the promotion. You are supportive of her career growth and you will be happy to see her promoted.

This special project to put together a project proposal for the XYZ Group is very important to you because it is your first chance to bring in a high profile client for the hotel. You know that successfully bringing them in will further your professional development at the hotel as you are still considered a 'newcomer' even though you have prior hotel experience in another establishment. You want to earn the respect of all your work colleagues and be treated as an important part of the team bringing in new business. With the exception of Nicole, no one has really befriended you in the hotel, perhaps because others think you jumped ahead of some people in the hotel's hierarchy by coming in on a lateral transfer.

More importantly, you want to make a really good impression with Mr. Santos, the head of this special project, because he was the Chairperson of last year's annual awards committee and you heard from other people that he "was not too excited" that you won the "Most Outstanding Account Executive Award of



the Year” last December. You want to earn Mr. Santos’s respect and make him realize that you deserved the award. In any case, if the hotel gets this account, you and Nicole will both get significant commissions and this will be good for you since your younger sister is going to college soon and you can use the money to contribute to her tuition and fees.

After you received the award last December, some people at the awards ceremony were teasing you that you might be a candidate for promotion to Junior Manager. In fact, the host of the awards ceremony announced on stage, although jokingly, that Nicole might have strong competition for promotion since she did not get the award this year (Nicole had received this same award every year for the three previous consecutive years). Since people were laughing and you saw Nicole laugh too, you did not think this meant anything. Nicole is a friend and you knew she wouldn’t be affected by it. Besides, Nicole is the obvious choice for promotion. You do not even think she would feel threatened.

In the 10th February meeting, you got into a heated argument with Nicole about certain details of the special project. When you discussed the topic of who will present the “handling conferences” section of the presentation to the XYZ Group, you volunteered yourself to do it because accounts involving conferences had basically become your specialism when you were still with Faith Hotel. You are very familiar with making presentations on this subject and you are aware of the common questions posed by potential clients. You also saw this as an opportunity to prove your worth to Mr. Santos.

However, Nicole disagreed vehemently when you volunteered. You thought she would feel relieved that you were taking this major part of the presentation because she would be able to focus on the many other tasks she is leading on. She said that she had been preparing for this part of the presentation and was determined to make the pitch on this aspect of it. You were a bit insistent that you do it because Nicole is taking charge of many other aspects of the presentation. You were surprised when Nicole suddenly started shouting at

you (and even used some vulgar language) and seemed to suggest you were trying to 'sabotage' this project. She started accusing you of trying to get all the attention from the clients.

It is only now that you realize that Nicole might be seeing you as serious competition for the promotion and she is worried that, if you take a major role in presenting the project proposal, you might have a chance of getting the promotion. You now remember that Nicole has not been very friendly to you since the beginning of the year and she has limited most of her interactions with you to when you are in meetings together. But you thought she was being distant because she was too busy with this special project and she is under pressure because the talks about the promotion are still going on.

You know Nicole will get the promotion. But if the promotion is given to you, you won't refuse the offer because it will mean additional income to allow you to support your sister's education. Nicole is a friend and she should be happy for you in the same way that you will be happy if she is promoted. But your promotion is unlikely as Nicole is the leading candidate.

All you want is to ensure that the project proposal is executed perfectly and successfully, and that Hotel Love gets the account; to have a substantial role in the project and not look like you're merely Nicole's assistant; to be acknowledged for all the work you have contributed to the project so Mr Santos and your work colleagues will give you the respect you wish for; and to maintain your friendship with Nicole because she has been the nicest person to you at Hotel Love (and, on a selfish note, because, if she gets promoted, you need to be on her good side as your career development will partly depend on her).



Simulation Exercise 4

COMMON INSTRUCTIONS SIBLINGS ANA AND KRISTIN

Ana and Kristin are siblings who bought a house for their mother a few years ago. Ana thought the apartment they were renting for their mother was no longer comfortable for her. They agreed that Kristin would pay the deposit and Ana would pay the mortgage payments. The house is worth Php4.6 million and the final payment was made last month.

Ana and Kristin are both actors and they have not been on good terms for the past few months. Kristin claims that Ana owes her Php1.8 million while Ana contends that it is the other way around, and that Kristin owes her a different amount of money. Each of them claims that the other is badmouthing them. Kristin thinks the badmouthing and rumours spread around by Ana have resulted in her losing a potential role in a family-oriented television show. Ana, on the other hand, points to text messages sent by Kristin which apparently contain malicious statements, such as this:

“If you don’t want me to cause any more trouble in your life, pay what you owe me. If you can’t pay, I will take your Sport Utility Vehicle. I’m sure that you will start selling your body to foreigners as you have done before.”

Their conflict was aggravated when Ana and Kristin had a heated exchange at a show business event where Ana and Kristin exchanged foul language and Ana pushed her sister. Kristin fell (or lost balance) and hit a table which caused a big bruise on her arm.

Kristin has filed several legal cases against Ana for physical injuries as well as for payment of monetary damages (for the injuries) and for the collection of Php1.8 million for the house payments. Ana, on the other hand, has also filed legal cases against Kristin for libel (because of the text messages containing malicious statements) including a claim for damages. The prosecutor encouraged them to try mediation first before formally pursuing the cases in court.

Simulation Exercise 4

CONFIDENTIAL INSTRUCTIONS FOR ANA, THE OLDER SIBLING

(Keep instructions confidential even after the exercise)

Your mother's house was bought after your suggestion to Kristin that both of you buy a house for her. You thought the apartment where your mother was living was no longer comfortable. You agreed that Kristin would pay the down payment (Php1 million) and you would pay the monthly mortgage payments. The sale document was placed in your name because you were the one who negotiated with the broker. The house is worth Php4.6 million. Kristin has paid a total of Php1.8 million (which is the total of the Php1 million down payment and a few mortgage payments made in the last few months) while you have paid a total of Php2.8 million (having paid the majority of the mortgage payments).

Kristin claims you owe her Php1.8 million and, if you cannot pay the amount, Kristin wants to take possession of your vehicle, an SUV. You know you do not owe Kristin anything. You are not being too particular about how much each of you contributed in relation to the house payments but if Kristin wants to be technical about it, she is the one who owes you Php500,000. Kristin has been difficult in the past few months when you asked her to cover some of the mortgage payments because you didn't have enough money. Kristin is making a big deal about the fact she is having to pay money for mortgage payments which she insists should have been your sole responsibility. You are deeply offended by Kristin making a big issue about money when you have given her so much. You became the sole source of income after your father passed away (when Kristin was still a teenager) and paid for her school tuition and expenses (as well as the many luxuries she enjoyed) out of your earnings when you left school. You have been very generous to her ever since and never asked her to pay you back. You never made her feel indebted to you for all you gave her. You feel that Kristin is extremely disrespectful for discussing money matters in public and is not concerned about your mother's welfare (our mother feels bad about all the animosity which has been created by Kristin).

Your friends tell you (although you cannot confirm the reliability of your sources which are mostly gossip reporters) that Kristin is blaming you for causing her to lose a potential role in a family-oriented television show. It is



true that you have been talking to your friends about your feelings of being disrespected but that is not, in any way, intended to ruin Kristin's reputation. You were merely confiding in friends about your situation with Kristin and hoping they could help you arrange a talk with her. Kristin has ignored all your calls and the text messages you have sent asking her to have coffee and talk. She is obviously avoiding you and you find that frustrating as well as insulting as an older sister. You think Kristin has become arrogant now her showbiz career is at its height. You feel Kristin was only kind to you when you were still popular and had the ability to give her money. Now that your career is a bit stagnant and you are not earning as much, Kristin is obviously no longer interested in maintaining even a cordial relationship with you. She is an ungrateful user.

What is worse, Kristin has been spreading rumours and making malicious statements to relatives and friends against you, particularly through text messages [see common instructions for an example]. When your cousin showed you another similar text message, you became furious and confronted Kristin at a show business event you knew she was attending. You admit shouting at Kristin (using foul language) at the event and pushing her out of frustration after Kristin referred to you as a "has been". You were already feeling deeply hurt that your career was not improving and that you have been in a tight financial situation with limited revenue in recent months. In fact, you decided to move into your mother's house after selling your own apartment as a way of saving money and keeping you financially afloat.

After that incident, you each filed legal cases against each other. You want to understand what is going on with your sister because you love her and, as your only sibling, she is special to you. But she has become too unreasonable, arrogant, and uncontrollable and you have been left with no choice but to sue her in return. If you let Kristin sue you, you might end up looking like the bad person and you cannot afford for that to happen, given your attempt to rebuild your career. Kristin no longer seems concerned about having a good (or even cordial) relationship with you and you are fine with it since you have

not spent much time together in recent years. She has become so caught up in her fame she has forgotten about her family and what her family has done for her. However, you are still pained by seeing your mother depressed (although she is not verbalizing her depression) because of this fight you are having with Kristin.

YOU DO NOT WANT TO SHARE THE FOLLOWING INFORMATION IN THE JOINT SESSION, ALTHOUGH YOU MAY WANT TO SHARE THIS IN THE SEPARATE MEETINGS WITH THE MEDIATOR:

You do not want the legal cases to go on because public attention might give you a worse reputation as time goes on. While you know you have a strong case and you look like the underdog in this story, you are afraid people will make deeper enquiries into the truth about the text messages sent around by Kristin. Before you became a successful actress, you were working as a GRO (Guest Relations Officer) in a very high-end club in Hong Kong where you unfortunately engaged in some sexual relations with clients to earn extra income (since you were the family's main source of income). It was a dark moment in your past and you are keeping this a secret because you've already changed and worked hard to build a movie career which is based on a very wholesome image. If this secret comes out because of this case, you know your career will never be resurrected.

You also do not want Kristin (and your mother) to know you are having financial difficulties because that will be too painful and you are too proud to admit it. Even if your sister is not talking to you, you want to preserve your status as an older sister who is in control of everything and who is a success. Besides, you don't want to give Kristin the satisfaction that you might really be a "has been". All you have is your role (even if it's just the appearance of this role) as a good daughter and a responsible older sister.



Simulation Exercise 4

CONFIDENTIAL INSTRUCTIONS FOR KRISTIN, THE YOUNGER SIBLING

(Keep instructions confidential even after the exercise)

Your mother's house was bought after a suggestion from Ana that both of you buy her a house so she could leave the uncomfortable apartment she was renting. You agreed with Ana that you would pay the down payment (Php1 million) and she will pay the mortgage payments. The sale document is in Ana's name and you cannot recall why but you did not bother to ask Ana to put your name on the document because you were too busy. Besides, you are already living in your own townhouse. Your mother's house is worth Php4.6 million. You have paid a total of Php1.8 million (which is the Php1 million down payment plus a few mortgage payments you have made in the last few months) while Ana has paid roughly Php2.5 to Php2.8 million (all other mortgage payments). Recently, Ana has been asking you to cover the mortgage payments, which was not part of the original agreement. You were not too happy with the idea of buying a big house for your mother in the first place but Ana insisted and you were too busy to argue at the time.

A few months ago, Ana sold her apartment and moved into your mother's house. Now you feel you were bullied and manipulated by Ana into buying a property which is turning out to be a house for her and not for your mother. You feel defrauded by the fact that the sale document was placed in Ana's name. If only you had known of this sneaky plan, you would have insisted the sale document was put in both your names. Given all this, you want Ana to pay you all of the Php1.8 million that you've paid and, if she cannot pay the amount (because she is pretending to not have enough money), you want to take possession of her SUV to serve as the payment.

Now you are annoyed that Ana is manipulating your relatives to make them believe you are the one who owes her money (Php500,000). You feel even more disgusted with the idea that Ana used your mother to deceive you into buying this big house that she will later take over.

The worst of it is that Ana has been badmouthing you to the close friends you have in common by telling them about this supposed Php500,000 debt and that you are supposedly the prodigal child who does not even spend time with your mother. It is true that you hardly visit your mother because you have been very busy with your movie engagements and you want to make the most of these of these opportunities while they are offered to you.

YOU DO NOT WANT TO SHARE THE FOLLOWING INFORMATION IN THE JOINT SESSION, ALTHOUGH YOU MAY WANT TO SHARE THIS IN THE SEPARATE MEETINGS WITH THE MEDIATOR:

You do not want your sister to know that you have had a gambling addiction and you lost a lot of money. The gambling addiction was also one of the reasons why you have not been able to visit your mother. You are over your addiction but you are still paying off huge debts, giving money back to people who loaned you money for your gambling. You need to pay them off soon otherwise you might be sued by the loan sharks and your gambling problem might become public. That will negatively affect your career while it is still at its peak. You also do not want your sister to be disappointed in you. Even if you are not on good terms, you still love her and you appreciate all the sacrifices she made to send you to school. If she discovers your gambling and your indebtedness due to this addiction, she will be crushed and you do not want that to happen. And this indebtedness is one of the reasons you are insisting on getting the Php1.8 million or the SUV from Ana. Neither the public nor any members of your family know that you have financial troubles and you want to keep it that way to save face.

You find it very painful that you lost a potential role in a family-oriented television show (which could have given you revenue) and you are certain it is because of the negative things Ana has said about you. Because of the difficulties you have been experiencing of late, you have become depressed and quick to anger, causing you to send angry text messages **but you deny that you sent the particular message** mentioned in the common instructions. You say this message has been concocted and you are being framed to make you look like the bad child.



[You may have sent that message but you are not sure. If you did, you are sure you sent it at a time when you were very angry and drinking a lot because of all your gambling debts.]

You also feel that Ana is jealous because you were always the favourite child and now you are the bigger celebrity and her star is starting to fade.

You were shocked by the fact that, at a major event, Ana suddenly confronted you and kept on shouting using foul language. You were put on the spot and so embarrassed in front of everyone that you became frustrated and called Ana a “has been”. You were surprised when she pushed you and you consequently fell. The story was spread all over the papers, including all the foul language your sister used towards you.

You are deeply hurt that you were manipulated into buying the property and feel you were bullied by your sister, just as you had been when you were growing up. You think she still treats you like a small child who will always say yes to whatever she wants.

You are mainly interested in preserving your career, in getting out of your financial difficulties, in preventing any changes in the way your mother sees you, and in making your sister think you are fully in control of your life and you do not need her to interfere in your personal affairs. So you decided to sue her – not only to put things right and to save face, but also to make the point that you will not take any more arrogance and ill treatment from your sister.

Some Additional Simulation Exercises

The two additional simulation exercises were formulated by participants of a three-day conflict resolution workshop organised by HD in Cagayan de Oro, Mindanao, Philippines from the 21st to 23rd of November 2016. This Training of Trainers (ToT) workshop involved Bangsamoro women and youth leaders from local civil society organisations and institutions. It included a preparatory activity in which the participants were able to construct their own simulation exercise to incorporate the local context and to reflect conflict situations which were generally experienced in their areas. The participants have happily agreed to share their outputs with HD for inclusion in the manual.

“The Saida/Said - Sittie Conflict” simulation exercise was written by the group of Bangsamoro youth leaders, while the “The Risqah - Anna Conflict” simulation exercise was written by the group of Bangsamoro female participants.

These additional exercises offer trainers for the course some samples which incorporate localized context and more relevant conflict situations. Trainers are also encouraged to construct and formulate their own simulation exercises which are relevant and relatable.



COMMON INSTRUCTIONS SAIDA/SAID – SITTIE CONFLICT

Saida and Sittie had a very close relationship for a mother and daughter. However, lately they have not been talking to each other. However, for the sake of Said (the husband of Saida/father of Sittie), the two are willing to undergo a mediation.

Sittie is a twenty-four (24) year old Meranaw (from Marawi City) who works as a nurse in one of the hospitals in Manila. She ran away from her husband, Fahad, a week after their wedding. She is very hesitant about going back to Marawi City and talking openly to her mother Saida who arranged the marriage.

Saida, on the other hand, is furious. She never imagined that her daughter Sittie would run away. In the Meranaw culture, parents have a say in marriage, among other things. As the mother, what Sittie did was not acceptable.

Sittie is the only daughter.

CONFIDENTIAL INSTRUCTIONS FOR SAIDA (MOTHER)

(Keep instructions confidential even after the exercise)

You feel angry about Sittie's decision to leaving the house and separate from her husband. You claim that Sittie had no issues with regards to marrying Fahad, as she was aware of the betrothal/arrangement. Fahad is handsome and they have known each other since they were little. You were certain that Sittie would like Fahad.

You arranged the marriage because you are sick and you want Sittie to settle down by marrying, so that she'll have someone who would be able to support her should anything bad happen to you and your husband Said. You always knew Sittie to be an obedient daughter.

You are now obligated to return the dowry. It is a burden for you to pay it back because the dowry has already been spent in covering the expenses for the wedding.

You feel embarrassed, especially with members of Fahad's clan. You also feel you are being judged and questioned as a mother. There was even one instance where your sister explicitly expressed her sentiments, saying the incident had brought shame to the family and raised feelings of betrayal in the family.



CONFIDENTIAL INSTRUCTIONS FOR SIT'TIE (DAUGHTER)

(Keep instructions confidential even after the exercise)

You have become an independent and strong-willed lady living alone in Manila. You planned to go to medical school after years of working as a nurse and marriage is not your priority for now.

Because of your good relationship with your mum and your dad (who now has a second family), you felt confident that you would always be understood by them no matter what.

You felt betrayed and hurt because your mum forced you to marry.

After the wedding, Fahad, your husband, was acting violently. He reprimanded you, saying you should not go back to work and even discouraged you from going to medical school.

You left your family and husband after a week because you were so afraid of him. You hoped that, because your marriage was not consummated, there's a big possibility you could be officially separated from him.

You are not talking to your mum and you have chosen to stay with your friends for a while. But you heard that your mum is not feeling well and your father has asked you to see them and talk to your mum.

COMMON INSTRUCTIONS

RISQAH – ANNA CONFLICT

Azam and Anna have been married for twenty years. Shortly after they were married, they were able to start a small business. As years passed by, the business grew and they were able to set up several branches of their business, including one in Manila.

One of Azam's siblings contacted an old friend of hers, by the name of Risqah, to serve as Azam's secretary. Eventually Azam and Risqah fell in love. Unknown to Anna, who was busy managing their branch in General Santos, Azam married Risqah and cohabited with her in Manila. Five months later, Anna found out about Azam's second marriage.

Anna, heartbroken and confused, went back to her home province to stay with her parents. Her parents and Azam's parents found out about the spouses' problem and thought that it would be best for them both to meet.

Azam and Anna talked it out. Anna made her husband choose between her and his mistress. Azam chose Anna. Anna, still unsure, said that she would only take him back on one condition, he was never to communicate with Risqah again. Azam promised he wouldn't and they tried to fix their marriage.

Not long after the incident, Anna, by chance, found out that Azam had broken his promise and had, once again, been unfaithful. Azam had been hiding the fact that he and Risqah were still seeing each other. This started a fight back and forth between Anna and Risqah on social media. Anna's parents, who saw Anna's social media posts, intervened and suggested mediation between Anna and Risqah. Concerned about their daughter's wellbeing, they convinced Risqah to take part in it, to reduce the chances of tensions rising further.



CONFIDENTIAL INSTRUCTIONS FOR RISQAH

(Keep instructions confidential even after the exercise)

I never intended to seduce Azam, I was only there for the job. But I often saw him looking lonely and depressed, so I did what I could to serve him. Not long after, I noticed that I was falling for him. We started spending more time together, even outside the office. Then one day, he proposed to me and I accepted. It was not my fault that his first wife neglected him because she was too focused on making money. She has no right to get angry over our relationship. She wasn't there to take care of him and to give him the attention he deserves. She was too busy making money, that's why Azam's affections wandered and found its way to me! Knowing that she failed him as a wife, she still had the nerve to attack me on social media claiming that I only love Azam for his money! And that's not even true! I love Azam! And he loves me back because he knows that I would sacrifice anything just to be with him. I am not ashamed of our relationship. Anna should be the one feeling shame as she neglected her husband just for the sake of money.

CONFIDENTIAL INSTRUCTIONS FOR ANNA

(Keep instructions confidential even after the exercise)

I am Anna, Azam's first wife. In our twenty years of marriage, we haven't fought even once. Even though we've been together for so long, we were never blessed with a child. We compensated by taking care of our nieces and nephews, treating them as our own and sending them off to school. Our household is doing well because our business grew.

One day, we decided to set up a branch in Cotabato City. This decision posed the biggest threat to our married life. Azam met Risqah while working in our branch in Cotabato City. Risqah was my husband's secretary. She was recommended to us by my sister-in-law. I didn't think then that my husband would fall for her or her for him, but I was wrong. I was shocked and angry when I found out from a friend that, unbeknownst to me, my husband and his mistress had got married. I never thought that this would happen to me, to us. I have been a good wife to him for as long as I know, I do not deserve this. He was sick and I wasn't there to care for him but that was no reason for him to let his feelings wander! But, even so, I love my husband despite his unfaithfulness; I could not just let him go so I decided that I would fix our family.

I want to tell my husband that in the twenty years we've been together, not once was I unfaithful to him. I was a good wife to him. I did everything I could for our family. I never did want to be physically away from him but I did what was needed to be done for us to have a better future.



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