



## Lesson 23

### Mediation Skills

#### Learning Objectives:

At the end of the lesson, participants will be able to:

- Define mediation
- Identify the four steps involved in mediation processes
- Identify at least two situations where mediation would be useful for improving civil society-military-police relations
- Identify the relevance of mediation skills for leadership in complex environments to achieve human security

This lesson provides an understanding of how mediation skills can enable civil society, military and police to identify the causes of conflicts between diverse stakeholders and develop mutually satisfying solutions that address the interests of each group.

#### 1. Definition of mediation

Mediation is a process for handling conflict with the help of a third party or “mediator” who facilitates a discussion between people in conflict with each other to identify the issues and develop options for addressing the challenges.

When a conflict is particularly difficult to resolve, a mediator helps people in conflict negotiate with each other by facilitating the process of identifying the issues and by encouraging parties to find solutions. A mediator plays a role that is more of a facilitator than a judge. Like facilitators, mediators guide people through a process where they can express their needs, share their experiences, and listen to others. However, mediators are not only interested in promoting exchange and understanding but also in coming to an agreement that all parties can accept. Unlike a judge, mediators do not make a decision about how to solve a conflict. Mediators need a wide variety of skills. These include the skills of good communication, dialogue, and negotiation discussed in the last few lessons.

Mediation is not a new idea or process; it is very old way of handling conflict adapted from tribal cultures around the world. In traditional societies, elders and chiefs play the roles of mediators. They help people in conflict communicate and negotiate with each other to find a solution to their problems. Mediation is growing in popularity. Many judges and courts around the world now refer cases to mediation. Diplomats use mediation to solve global problems and to bring an end to wars. Schools use peer mediation so that youth learn how to address problems with discussion rather than fighting.

## 2. When is mediation useful?

In complex environments, civilian, military and police leadership may use mediation to address a wide variety of conflicts. Adaptive civil-military-police leaders may find that they can serve as a mediator among their own staff, between other organisations who are in conflict, and between groups in the wider society that are in conflict.

- Intra-group conflicts within civil society, military or police about internal conflicts. Mediation can help address staff conflicts within an organisation.
- Inter-group conflicts between civil-military-police groups about each groups' roles and responsibilities in areas where they are each working and need to coordinate. Mediation can help address conflicts between communities and the police or military working in the area.<sup>112</sup> Mediation can be useful for adaptive leaders attempting to build a wide coalition of coordinated efforts aiming to achieve human security by improving relationships and the ability to coordinate between groups
- Identity conflicts between clashing ethnic, religious, tribal or other identity groups. Mediation can be used as part of a broader approach to reconciliation, conflict prevention, and peacebuilding to address deep-rooted conflicts and challenges. Mediation can be useful to decrease levels of social division and violence between groups that are driving or contributing to conflict in a complex environment. For example, police can serve as mediators between community members.<sup>113</sup>

## 3. The Mediation Process

The formal use of mediation draws on the best practices of people who have played a mediating role between groups in conflict. The process of mediation is not an exact recipe to be followed. The mediation process looks different in different contexts. The following four steps provide a general guide to the mediation process.



**Figure 58: The Mediation Process**

### **Pre-Mediation**

Mediators usually prepare for a mediation session by meeting separately with each stakeholder, the individuals or groups involved in the conflict. In this preparatory meeting, a mediator will do the following:

- Identify potential locations agreeable to each stakeholder
- Review the mediation process and clarify the role of the mediator to lead the process, not to decide outcomes
- Listen to stakeholders identify key issues that they will bring to the mediation

## **Mediation Introduction**

### Welcome and describe the process

- Make people feel comfortable according to local culture or custom. Greet people and help them find an appropriate place to sit
- Give people a sense of how the process will proceed

### Establish commitment to ground rules and the process

- Establish ground rules (see Lesson 11 or 21)

### Opening Statement

Let each person describe the situation from his or her own perspective by making an “opening statement”

## **Identifying Issues and Options**

### Mediator summarises key issues and checks for accuracy

After the opening statements, mediators ask the different sides to paraphrase and summarise what they heard the other individual or group say were their key interests. The mediator should assure all stakeholders that *understanding* the other stakeholder’s point of view does not mean *agreement* with their point of view. Paraphrasing is a way to check for understanding.

Summarise and reframe the key issues each stakeholder has identified to highlight the underlying interests of each group. For example, stakeholders might share specific experiences, behaviours that are offensive, or a disagreement about a specific decision or resource. Mediators reframe positions and demands into statements that check for underlying interests, often having to do with a sense of respect, dignity and an ability to participate in decisions that affect the stakeholder’s interests. Ask all groups whether they feel their issues have been understood correctly.

### Mediator sequences and groups issues together

- A mediator may call a break to consider how to best sequence a discussion of different issues identified by the stakeholders
- Address each issue one by one, or group similar issues together
- Sequence issues from easy to difficult

### Brainstorm options to address issues

- Ask people to think creatively to develop solutions to address everyone’s needs and interests
- Create a list of possible options for addressing

## **Making Agreements**

- Jointly decide what options best address everyone’s interests
- Evaluate the different issues: ask participants which options will satisfy everyone’s interests
- Encourage and empower the people in conflict to choose which options are best for everyone
- Use this process to address each issue until they all have been addressed

### Develop an agreement

- Make the final agreement as specific as possible: Who will do what? When will they do it?
- Make arrangements for what will happen if the agreement does not hold or if some other issue or conflict arises. What will happen next?
- If apologies, acknowledgement of responsibility, or affirmation is part of the agreement, write these down or make note of them in the final agreement

### Closing Ceremony

- Find a way to close the mediation with sharing food over a reception or meal.

## **4. Mediation Skills: Paraphrasing, Summarising, and Reframing**

Mediators draw on foundational communication and conflict skills to help the people in conflict communicate more effectively and find solutions to their conflicts. Mediators should occasionally paraphrase people’s thoughts and feelings to check-in with them to ensure that you have correctly understood what they said. Paraphrasing is a way of acknowledging that you hear what someone said and checking to make sure you and others understand the message by giving them a short summary of what they have said. Say: “So what you’re

saying is ...” This is especially important if you are not sure you understand what they are trying to communicate or if other participants look confused.

Mediators can also ask other groups in the mediation to paraphrase statements from an opposing group. This is a very helpful technique to build trust between groups, as it helps them recognise that others have understood them. Mediators help to summarise the discussions for the group by using paraphrasing skills

**Example A:**

Diplomatic: “I would prefer if we would agree to finish listening to the opening statements in the mediation before we break for lunch. Could we all reaffirm our commitment to the ground rules of the mediation?”

Accusatory: “I will not tolerate any more interruptions!”

**Example B:**

A villager is very upset with another group in the mediation, saying “You never tell the truth, I can never trust you!”

Mediator paraphrased reply: “It sounds like you are really frustrated about what has happened in the past. Can we agree that during the mediation process, we will all be honest with each other?”

**Example C:**

Someone in mediation might say: “I demand that you give me \$1000 in compensation for destroying my farmland with your military equipment!”

Mediator reframing: “If I am hearing you correctly, you have an interest in compensation for your losses and want the military to acknowledge these losses.”

at the

end of each presentation or phase of the mediation.

“Reframing” is similar to paraphrasing. In reframing, a mediator will summarise what someone has said, but will change the phrasing of the sentence to be more productive in transforming the conflict. A mediator can “reframe” a statement about a groups’ position on how to solve the problem into a more general need that expresses the interests underneath the position.

Speaking diplomatically is also a key skill for mediators. Learning how to speak diplomatically helps mediators say difficult things in a way that others can hear them. When mediators need to communicate a message about conflict or differences among people, they need skills to enable them to give this message in a way that will not make other people close their ears or become defensive. When you are upset at others, diplomatic speaking identifies your own needs without offending others.

## 5. Non-Verbal Mediation Skills

Mediators communicate nonverbally with their eyes, facial expressions and body posture. Mediators can set the tone for a productive problem-solving session through nonverbal cues.

- *Relaxed and calm:* The groups in the mediation will watch the nonverbal behaviour of the mediators. If the mediator appears calm and relaxed, this helps the groups in the mediation stay calm. If the mediator is anxious and nervous, this is contagious and will spread to participants in the mediation.
- *Address the whole group:* Look around the whole group as you speak. Try not to favour certain people by looking directly at them most of the time.
- *Confident and dignified:* Mediators should think about their body posture to communicate that they are confident and that they are overseeing a dignified process where each person is respected.

## 6. Managing Conflict

Remind everyone that conflict is normal. While conflict may be uncomfortable or tense, it is an opportunity to solve problems and build better relationships.

- Remain neutral as much as possible. If you don't take sides, the group will have more confidence in trusting you to help mediate and resolve the conflict.
- Go to the heart of the matter. Focus on the issues central to the conflict. This may seem to initially make matters worse, but you have to do it to understand the disagreements.
- Stop one-on-one arguments from developing and threatening to take over the dialogue. Ask for quiet time for a few minutes, or get everyone to stand up and stretch, encourage the people involved to talk about it during the break, or suggest that people count to ten before answering back.

## 7. Emotional Outbursts

- Accept strong emotion as natural. Treat it as a chance to look closely at the issues involved and invite the group to help resolve it. Strong emotions express bottled-up feelings due to past experiences (anger, hatred, fear, hurt).
- Don't stop a crying participant. Give the person time to do it. Allow the flow of emotions and energies as well as the flow of ideas in the group, but don't let them disrupt the interaction for too long. For example, participants might burst into tears when sharing a painful experience.
- Allow the participants to express their emotions as well as the flow of ideas in the group, but don't let them disrupt the interaction for too long. Call a break and ask the person what she needs from the group.
- Afterwards, lead the group into some moments of silence to process what happened or, if you know you can, talk it through for them to help them learn from the situation.

## 8. Addressing participants who talk too much

Try to gain some agreement with the group at the beginning about the need to share speaking and listening roles so that each has a chance to talk.

If some members of the group begin talking too much or too frequently, and you notice that others in the group are not paying attention, ask them if you can interrupt briefly. Remind the whole group of the need to listen to everyone's experience and that the mediators' job is to make sure everyone has time to speak. Tell the group that you will raise your hand briefly when it is time for the person speaking to summarise their main points and let someone else talk. Then go back to the person who was talking and ask them to summarise their story and move onto another participant.

In some situations, you may want to talk to the person who has been talking too much at a break, so they are not embarrassed in front of the group. Thank the person and tell them you observed that they had a lot of important experiences to share, and then ask them to make sure to let other people have a chance to talk. Be nice when you discourage talkative people who keep trying to take over the speaking time. Say: "Thank you- but let's hear from some others first."

## 9. Dealing with Silence

Participants are silent for different reasons in workshops. They can be afraid, shy, untrusting, bored, angry, and so on.

- Bring out quiet participants by gently including them in the dialogue. Say: "We haven't had the chance to hear your view yet. Would you like to share it with us?" or "We haven't heard much about how your group feels. What do you think?"
- Treat silence with respect, not fear. There are usually good reasons for it and finding out the reasons will help you re-focus the group on the workshop goals. When silence is bothering the participants or they seem unable to break it, confront it. Say something like: "We all seem to be unusually silent and some of us are looking a bit uneasy. Can we talk about what's happened to cause this? How do you feel about the silence?" We often think that nothing can be happening unless people are talking or that something must be wrong if people are not talking. But communication can still happen without words: participants speak with their eyes, and with hand and body expressions (non-verbal communication). Learn to look for non-verbal communication and to interpret it correctly for the group. Also, participants may want to take some quiet time out, even in a discussion group, to sit and think about what has been said.
- Bring hidden conflicts out in the open. If you see signs of unexpressed disagreement, ask those participants what they are feeling. Say something like: "I sense that we're not dealing with all the issues here. What is going on here? Let's talk about it together." If the whole group is silent, they may not understand the question you have asked to get the conversation going. Try to re-word the question or ask two or three similar questions and then open the discussion up again. If the group is

only giving short and brief answers to your questions, ask more questions to help people say more about their experiences or feelings.

## 10. Managing Spoilers

*Adapted from "Managing a Mediation Process" US Institute of Peace<sup>114</sup>*

"Spoilers" are people or groups who will try to interrupt or block a mediation. They may be inside or part of the mediation, or outside of it. If they are in the mediation, they may just be there trying to interrupt the process to make sure there is not an agreement. Other spoilers will block agreements if their own interests are not met.

It may be difficult to know at the beginning who is a spoiler. It is important to have all the key groups in the mediation, even those who may turn out to want to spoil or interrupt the process. But if some groups are not included in the mediation, they may be making more trouble or interruption outside of the mediation. So it is important to try to include them. Instead of excluding spoilers, mediators should find ways to manage them in the process through these techniques:

### 11. Mediators can ask to meet with spoiler groups directly.

Include spoiler groups as observers of the process, but not direct parties to the mediation.

- Try to address the underlying grievances of the spoilers. Find out if they are looking for security, a sense of fairness in distribution of resources, or some form of political recognition and legitimacy. These issues can be made part of the mediation itself.
- Ask potential spoilers to help develop and then commit to a set of ground rules for the mediation that will establish a set of norms for acceptable behaviours.
- Create a set of "carrots and sticks" so that groups that follow the guidelines gain the benefit of mediation and those that do not follow the guidelines will suffer some consequence. The groups in mediation can develop these carrots and sticks at the start of the process, so that they set up their own rewards or punishments.
- As a last resort, spoilers can be told that the mediation process will go forward with or without the spoiler. emphasising that the spoiler's actions will have limited impact on the overall process. They can either be part of the process or not included in the outcome.

## 12. Breaking Deadlocks

*Adapted from Editors: Peter Harris and Ben Reilly Democracy and Deep-Rooted Conflict: Options for Negotiators Institute for Democracy and Electoral Assistance, 1998.<sup>115</sup>*

When the mediation cannot proceed because the groups are at an impasse or cannot work through or agree on how to address an issue, there is a range of strategies to break this deadlock.

- Coalition building– Gain agreement from those groups in the mediation that want to continue talking with each other to form a coalition.
- Unofficial channels– When official mediation or negotiation efforts break down, unofficial channels for communicating can continue and meetings can take place in informal settings.
- Subgroups– Small groups of people can work on difficult issues that are blocking the progress of the larger group. These subgroups can work to develop options for addressing the issue that can then be brought back to the larger group.
- Shuttle mediation– A mediator can work with groups separately to try to make progress or gain clarity on the underlying issues and needs blocking progress in mediation.
- Referendums, consultations and mandates– If the groups in a mediation are not able to identify a way forward, these issues could be put to vote via a referendum or community council meeting.

## 13. Mediation Teams

A mediation team is a group of people, with different backgrounds or points of view who work together to lead the mediation process. Mediation teams best include a combination of insiders/locals and outsiders/internationals.

- A set of legitimate and respected insiders/locals that hold extensive social capital networks with diverse stakeholders
- A set of credible and respected outsiders/internationals with comparative experience with peace processes in other countries

#### 14. Key Roles of Mediation and Negotiation Support Teams

Experts: Bring technical experts in the specialised skills of negotiation and mediation along with knowing the lessons learned from past peace processes

Trainers: Offer stakeholders training in negotiation, handling and speaking with news media, conflict coaching and other skills necessary to a peace process

Analysis: Engage in on-going analysis and assessment of political, social, economic and security dynamics impacting the peace process

Good Offices: Provide good offices or access to information related to the conflict needed by stakeholders

Envoys: Help identify, communicate with, transmit messages between, and convene diverse stakeholders

Planners: Ensure that all stakeholders accept the location of meetings, arrange for security at meetings, detail protocols, level of confidentiality and other ground rules to foster respectful interactions

Mediators: Model respect for all stakeholders, ensure each stakeholder has adequate and roughly equal time to share their perspectives, identify shared grievances, highlight common ground, develop creative options, design next steps together

Reality Testers: Challenge stakeholders to identify their best alternatives to a negotiated agreement and consensus on the way forward for the country. Identify the costs of not reaching an agreement

Catalysts: Act as catalysts for new forums, programmes, institutions to foster the peace process and on-going peacebuilding.

Sustainers: Provide continuity and sustainability to a long-term, dynamic process

#### 15. Personal attributes of Mediation Teams

In their book, *In Pursuit of Sustainable Peace: The Seven Deadly Sins of Mediation*, Lakhdar Brahimi and Salem Ahmed outline the dangers of ignorance; arrogance; partiality; impotence; haste; inflexibility; and false promises.” They say these are the fatal consequences for the peace process. Instead, members of a mediation team should have at least the following basic skills and values supporting peace processes.

- Commit to using robust diplomatic skills in all situations and peaceful resolution of conflict and demonstrate capability of building or repairing relationships
- Recognise local capacities for facilitation and mediation skills in community, district or national processes or institutions
- Seek and promote inclusive, just and equitable solutions to political conflicts even if the insiders may belong to one or more of the groups considered as key stakeholders

#### LESSON REVIEW

This lesson reviewed the mediation process for civilian, military, and police leaders working in complex environments. Stakeholders may be able to use mediation to improve the ability of groups to work together toward shared goals and/or to defuse tension, conflict or violence between groups in society that are contributing to a crisis.

#### Citations

<sup>112</sup> Lieutenant Matthew Ivey, “Using Mediation to Resolve Disputes between U.S. Military Bases and Foreign Hosts: A Case Study in Japan,” in (*Harvard Negotiation Law Review*, 9 March, 2009). <http://www.hnlr.org/2009/03/using-mediation-to-resolve-disputes-between-us-military-bases-and-foreign-hosts-a-case-study-in-japan/> accessed January 2016.

<sup>113</sup> Samuel Walker, Carol Archbold, and Leigh Herbst, *Mediating Citizen Complaints against Police Officers: A Guide for Police and Community Leaders* (Washington, D.C.: U.S. Department of Justice, Office of Community Oriented Policing Services, 2002), <http://restorativejustice.org/am-site/media/mediating-citizen-complaints-against-police-officers.pdf> (accessed January 2016).

<sup>114</sup> Amy L. Smith and David R. Smock. *Managing a Mediation Process*, (Washington D.C.: U.S. Institute of Peace, 2008).

<sup>115</sup> Peter Harris and Ben Reilly. *Democracy and Deep-Rooted Conflict: Options for Negotiators*, (Stockholm, Sweden: International Institute for Democracy and Electoral Assistance, (International IDEA), 1998).

## Lesson 23

## Learning Exercises

### Anchor

10 minutes

To begin the lesson, anchor the content in this lesson with an open question:

- What is an example of a time in your life when someone else intervened in a conflict between you and another person? What did that person do to help resolve the conflict?

### Add

20 minutes

Present the PowerPoint slides or ask participants to discuss the lesson readings in a small group.

### Apply

25 minutes

The goal of this exercise is to practice using mediation skills. A group of young armed men who had been committing acts of violence against both local communities and the local police are going through a process of disarmament, demobilisation and reintegration (DDR). The young men have given up their weapons and are beginning to return to their communities. Some members of the community are unhappy about the return of these former members of the gangs and militias that brought violence to their communities. They want to see the young men punished, not reintegrated into their community. Other members of the community want an end to the cycle of violence and want to welcome the young men back into the community. The community plans a mediation process between the community members who oppose or favour reintegration.

Divide into four groups composed of mixed teams, some representing the security sector or government and others representing civil society. Each group can assign two people to be mediators. Mediators may assume a “pre-mediation” meeting has already taken place to identify the time and place of the meeting. Mediators may begin by introducing and explaining the process.

After 20-30 minutes in the mediation, call time and begin to debrief the exercise. Let the small groups debrief first:

- What did the mediator do well?
- What was challenging?
- What might have helped the process?

In the large group, ask small groups to share the challenges and to ask questions about the process.

See the “Scenario-based Learning” section in the [Handbook on Human Security: A Civil-Military-Police Curriculum](#) for explanation of the scenarios and teams.

### Away

5 minutes

To end the lesson, the trainer can ask participants to divide into groups of 2 or 3 people. Participants can share with each other their reflections on this lesson.

This Lesson is part of the *Handbook on Human Security* found at [www.humansecuritycoordination.org](http://www.humansecuritycoordination.org)

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