

Better Communication in Industrial Relation Mediation

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ILO Jakarta Office

Associate Expert Maiko Amano

1. INTRODUCTION

Mediator is a facilitator

- Mediation is where the parties try to find a solution through a voluntary negotiation with a compromise by themselves
- Main role of mediators is a **facilitation**
≠judgement



- To be fair and keep neutrality between both parties
- Encourage the Parties to confess their real opinion toward a solution
- Not blaming/accusing a “**person**”, but looking for a solution of a “**problem**”
=the objective of mediation

What Competencies Mediator Needs?



Skills-based competencies:

- **People Management Skills**
 - Creates and maintains an environment conducive to conciliation/mediation
 - Builds understanding using a range of communication skills
- **Process Management Skills**
 - Establishes and maintains a safe and effective framework for the process
 - Works through the phases of the mediation in an effective & systematic manner
- **Problem Management Skills**
 - Empowers the parties to determine the content and outcome of the dispute
 - Explores content, assists parties to generate options & facilitates negotiation

knowledge-based competencies: such as of mediation process, conflict management, negotiation skills, principles of dispute resolution, law, ILO conventions & recommendations, etc.

2. BETTER COMMUNICATION IN MEDIATION PROCESS

Mediators should



- Listen actively
- Be aware of body language
- Paraphrase and summarize
- Use appropriate question style

Active listening



- Pay attention to the Speaker (face the speaker, don't look at your watch, other people or other activities going in the room or outside, acknowledge their message);
- Show that you are listening (your body language & verbal comments to encourage the speaker);
- Be aware of non-verbal signs (listen to emotions, body language);
- Respond appropriately (be patient and don't interrupt unnecessarily, allow venting, tone of your voice should not appear attacking or putting down the speaker, be non-judgmental); focus should be on clarifying what is being said, observed, felt, needed, and requested, rather than on judging

Summarizing/Paraphrasing/Reframing



- Summarize & check with Speaker (main facts, issues, concerns, feelings and needs expressed by the parties);
- Paraphrase (focus on the fact what happens, help parties to understand the fact/emotion of opposite party)
- Reframing (Reduce hostility, make too aggressive language to be more neutral words)

Questioning



Questioning has multiple functions

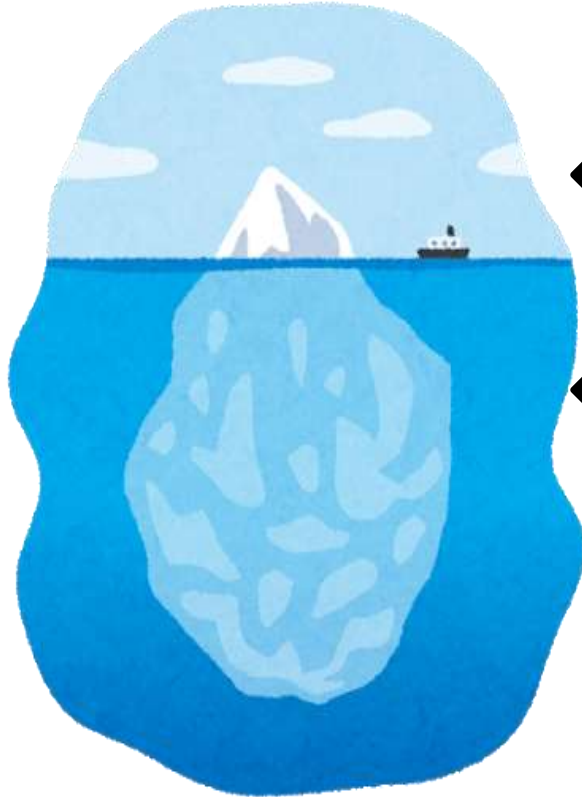
- To clarify facts, meanings and feelings
- To identify key issues and needs
- To reduce some of the tension in difficult situations
- To show an interest in what the speaker is saying
- To reframing hostile languages
- To help the speaker see things a bit differently
- To prepare for problem solving (by having a better understanding of the issues)

Mediators should AVOID.....

- Not active listening
 - Biased attitude
 - Interruption for person's talk
- Poor questioning skills
 - Use only Closed question
(Yes/No question)
- Bad body language
 - No eye-contact, Arms folded, Bad posture, Informal attire



Listen a hidden real voice



←What a person says

←Real voice/interest

Hidden background

Example

“Orange battle between sisters “

- There is only one orange
- Two persons who want the orange are fighting

How to find a solution?



Question to the Parties



- Why do you want an orange?
- When do you want an orange?
- How amount do you want?
- What part of orange do you want?
-

Win-Win Negotiation

I want to eat the orange



I want to the peel of orange for
baking an orange cake

Hidden voice brings a solution



←What a person says

「I want an orange」

←Hidden real voice/interest

「I want the peel of orange for
baking a cake」

=I don't want to eat an orange

3. LET'S TRY A ROLE-PLAY!

Before you start a Mediation



- Understand the basis on which you are conducting a mediation – is it voluntary? Or mandated by labour law? What needs to be resolved and the relevant law.
- Is this an individual/multi-party or collective dispute?
- Who should be involved? A pre-mediation meeting might be considered to clearly identify the relevant people to be involved [Knowledge & authority of those participating];
- Where is the best place to conduct the mediation?
- Is it a rights based dispute or an interest based dispute?
- Where is the process likely to end up if the matter is not resolved.

Beginning the Process, 1st meeting

- 1st Meeting - very important to set the stage (create the right environment of authority and constructive participation; seek to promote trust in both you and the process);
- Explain objective of mediation (resolution of conflict, not investigation); make it clear that it is the parties that are the main players and you are there to help them reach solutions; Important to remind the parties that it is not You - the Mediator that they are trying to persuade but the other side in the dispute;
- Describe the process of mediation & agree on ground rules (no interruptions; note-taking; Complainant speaks first, then Respondent, confidentiality, respect for each other, etc.); describe joint & private sessions; agree on time limits or other constraints on the process; agree to disagree on specific issues, if needed, etc; Explain & sign Mediation Agreement;
- If there is an agreed facts document briefly confirm its contents.

Case :Termination of Employment Contract



- Group work of 3-5 persons
- **Common scenario**, mediator has only this
- **Secret Scenario** of worker/employer
- This is the 1st meeting of their Mediation
- Mediator try to **facilitate** and withdraw facts / their concerns in a good communication
- Use Questions list
- Recommendation is not necessarily important for today's training

Each has own interest and voice



- Employer(Company)
- Employer(Direct Supervisor)
- Worker

Wrap-up for the role-play



- Mediator is not a Judge
- Invite the parties to a good communication
- Open-mind and not assuming a “Recommendation” from the beginning of mediation
- Hidden fact might be important but does not necessarily always lead to a best result



Thank you!

