

Forms

1. Direct (formal)
2. Indirect (informal)

3.4 Forms of mediation and conciliation

Direct and Indirect

In direct (formal) mediation the precise role of the mediator is usually defined. For example, a chief may determine which party is at fault, or a neutral third party may help keep a balance in the negotiation process. In indirect (informal mediation) the mediator's role is less well defined and more modest, and may be as minimal as passing messages between the parties. Mediation is a delicate process and both sides must agree on the mediator or facilitator for them to be effective. By agreeing to a mediator, the party's shows they are willing to give up some of their own power. Trust and an in-depth knowledge of conflict dynamics are required to build positive relationships between the mediator and conflicting parties.

A good mediator is not necessarily neutral or impartial. In some cultures an insider-partial mediator and facilitator will obtain greater respect from the conflicting parties than an outsider-neutral person. This is most commonly witnessed in South American societies. Other societies prefer to rely on religious leaders or community leaders to act as mediators, both for their spiritual value and authority. It is not advisable to use religious leaders as mediators when the parties follow different religions, as this in itself can be a source of conflict. However the gender of the mediator may be important in certain traditional societies. Be aware of the temptation for people to manipulate the mediator to become their advocate.

3.5 Types of Mediation

Mediation can have different objectives and can take a number of forms. Some forms of mediation have been described from the perspective of the objectives they seek to attain:

- Evaluative mediation: The mediator evaluates the claims or rights of the parties having regard to the applicable legal rules.
- Facilitative or problem-solving mediation: The mediator helps the disputants to resolve their differences by facilitating communication and the search for creative (mutual gain) solutions.
- Therapeutic mediation: The mediator helps parties "heal the hurt" caused by disputes and may "facilitate reconciliation" between the disputants.
- Transformative mediation: The objective of mediation is to transform the disputants, both individually and in relation to one another through "empowerment" (disputants improve or learn new skills to resolve their own disputes) and "recognition" (understanding the other side's perspective, thereby creating "empathy" for the other).

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