

CONFLICT RESOLUTION

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1. What is a conflict?

Even though we all have experienced some form of conflict in our own lives, we rarely are able to define exactly what a conflict is. There are many possible definitions to be found in academic literature, whilst some of them might seem quite contrastive:

An example of so-called "traditional perception of a conflict" is this definition by Lewis Coser:

Conflict involves a "struggle over values and claims to scarce status, power and resources in which the aims of opponents are to neutralize, eliminate or injure their rivals."(1967)



LEWIS COSER

An example of a modern perception of a conflict can be illustrated in Franklin E. Dukes' definition of conflict:

**"Conflict is a natural, inevitable, and recurring part of all human interaction occurring at all level of society...
... It is not deviant or pathological, per se, nor does it necessarily result in serious harm; its manifestation may be a revealing expression of injustice or strains in the social system which demands attention."(1996)**



FRANKLIN E. DUKES

Nowadays, we prefer to perceive conflict as a natural part of our lives, as a consequence of people having diverse or conflicting needs, opinions or values. We perceive conflicts to be a useful force for change, and one of the vital conditions for **constructive conflict resolution.**

2. What is a conflict resolution?

Resolving conflicts has been a part of people's everyday realities in all stages of human history. Nevertheless, **conflict resolution** – as a defined field of study – was established first in 1950s and 1960s (at the peak of the Cold War) when a group of European and North American researchers from various fields realized the need to study the phenomenon of conflict resolution in a complex way.

They joined their powers, diverse experience and 'know-how' in order to make a general theory on conflicts (occurring between states, individuals, communities or families, etc.) which would help in resolving conflicts in all of ways in which they can occur.

After the initial struggle with the traditional way of conflict perception, conflict resolution pioneers managed to attract the attention of other researchers and practitioners in other parts of the world struggling with various sorts of conflicts (South Africa, Middle East, and South East Asia) who tried to apply the new ideas of conflict resolution in their practice and reached impressive results.

In present, we define conflict resolution as one way to channel conflicts in a constructive way, as non-violent processes that promote dialogue and negotiation.

The main aim of conflict resolution as a field of study is to define, address and transform deep-rooted sources of conflict, which undermine violent behaviour, hostile attitudes and rigid structure of the conflict.

The conflict resolution theory is usually based on so-called **conflict analysis**, which is an essential but also a very challenging process. Conflict analysis should inform decision-making with the aim of improving the effectiveness of conflict prevention, conflict management and peace building interventions, including the effectiveness of development and humanitarian assistance.

3. Conflict analysis

The main aim of conflict analysis is to gain a comprehensive and shared understanding of potential or on-going conflicts. It usually involves an assessment of key conflict factors (sources of tension and root causes of conflict), actors (interests, potential spoilers, capacities for violence and peace), and dynamics (triggers for violence, process development, likely future scenarios). Analysis can be undertaken at local, national, regional and international levels.

It is important to emphasise that conflict analysis is an on-going process and not a static, one-off exercise. We can say that the analytical framework of conflict analysis provides a detailed snapshot of a conflict at a particular point in time. The framework usually consists of a set of questions organized around the following themes:

1. Who are the actors/parties involved in the conflict?

(2, 3.....multiparty conflict)

2. What is the power distribution in this conflict situation?

(Who possesses the decision-making power, information power? Is there a power imbalance that may influence the character of the conflict?)

3. What is the size of the conflict?

(Amount of people involved and the level of conflict - individuals, groups, community, etc.)

4. What are the most important causes of the conflict?

(E.g. data missing, structural, values, etc.)

5. What is the course of the conflict?

(How long has the conflict been going on? Days, months, years? In what stage is the conflict right now?)

6. What has already been done to resolve it?

(History of past successes and failures in regards to finding solutions)

7. What is our role in the conflict?

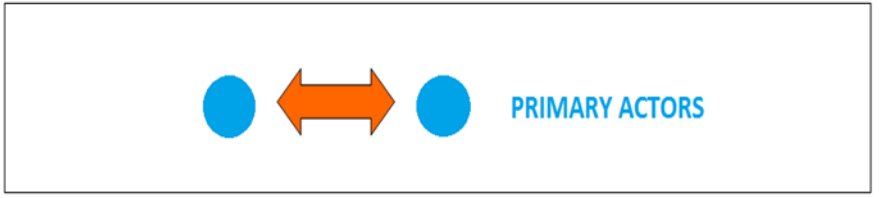
(E.g. victim, oppressor, advocate of one of the parties, independent expert and fact finder, informal/formal intervener (like conciliator), mediator, arbitrator?)

3.1 Actors involved in the conflict

Conflict analysis usually begins by identifying the actors within the conflict. The term **actor** includes anyone who may have an influence on the outcome of the conflict, or anyone who may be impacted by that outcome.

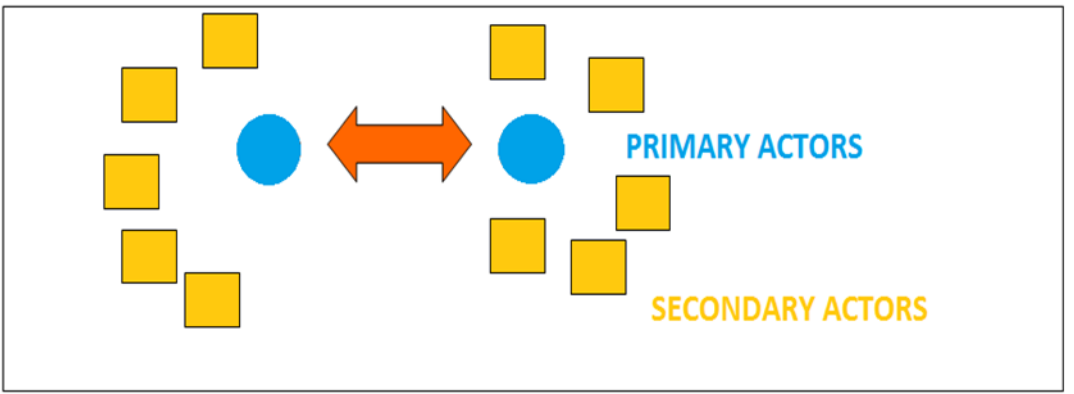
Actors might include individuals, governments, international organizations, financial institutions, as well as identity groups, etc. They all deserve consideration when we're looking for ways to resolve the conflict. Within actors, analysts usually distinguish between **primary, secondary and tertiary (or 'other')** actors.

1) PRIMARY ACTORS are those directly involved in the conflict.



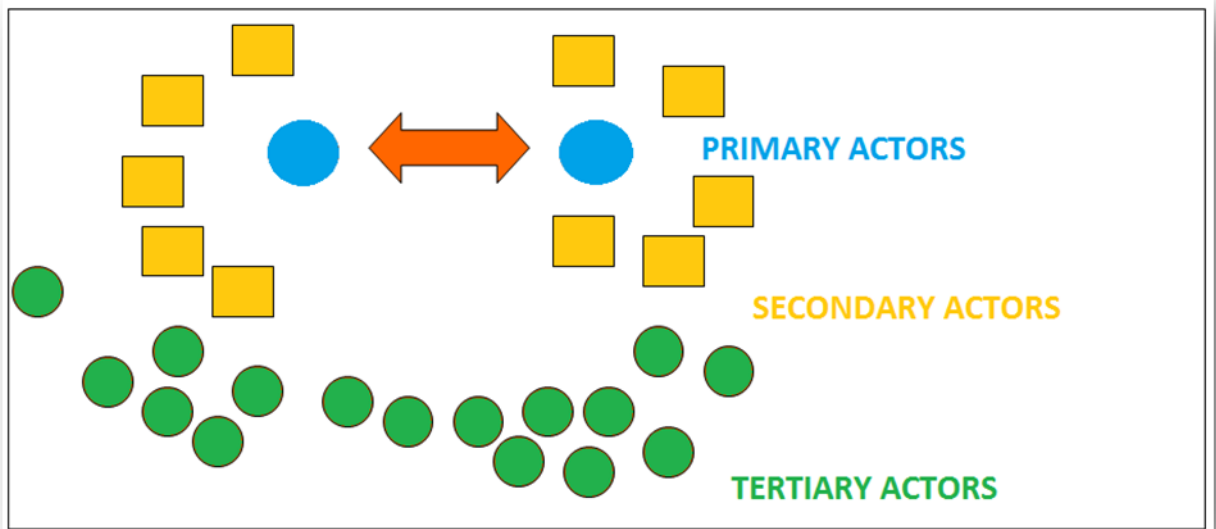
For example - in Rwanda, primary actors included the multi-party government led by moderate Hutu, the hard-line Hutu Power leadership, the Hutu-led Rwandan Armed Forces, and the Tutsi-led Rwandan Patriotic Front.

2) SECONDARY ACTORS are not actual parties to the conflict but have a high degree of interest in it and an influence over it, often due to their proximity.



For example - In Rwanda, one very important secondary actor was Radio Television Libre des Milles Collines (RTLM), the station that urged the killing of Tutsi and moderate Hutu over the airwaves.

3) TERTIARY ACTORS are other parties with interests in and influence over events, including regional and global players, which can play a significant role in conflict resolution and therefore need to be considered in the analysis. These include identified organisations and actors involved in interventions promoting peace and security in the country or region.



For example - In Rwanda, regional actors included Uganda and Tanzania. International actors with influence included the United Nations, the United States, Belgium and France.

QUESTIONS THAT WE USUALLY ASK WHEN ANALYSING ACTORS INVOLVED IN THE CONFLICT:

1. Is it a conflict of two or more parties? How many?
2. Are the parties represented by individuals, groups, institutions, coalitions, communities, nations, etc.?
3. Is it possible to distinguish primary, secondary and tertiary actors of the conflict?

Even the simplest interpersonal conflict has many elements. Conflicts involving multiple parties, large numbers of actors, and complex organizations such as governments get to be enormously complicated.

In order to have a complex and realistic overview of the conflict, we usually need to analyse categories of **power, resources and relationships** between the actors.

3.2 Power, resources and relationships analysis

A power analysis that identifies structures and power relationships between actors, for example, by describing discrimination and other human rights abuses, is an important part of any strategic conflict analysis.

Power is an integral part of social relationships which stands in the centre of all conflicts. We often realise its presence in conflicts only intuitively, which is not enough when trying to analyse and even resolve a conflict. **We need to identify clearly the type and sources of power and what influence it has over the relationships between actors.**

The questions which we usually ask in this stage of conflict analysis therefore include:

1. What are the resources and capacities of each side?
What is the state of the relationship among the actors?
2. Is the power distributed evenly (equally) or asymmetrically with an outstanding power prevalence of one party?
3. In case of an asymmetrical distribution of power – what is the source of it? Is it informational, physical, financial, expert or status-based power?
(explanation below in "Types and sources of power")
4. Are all aspects of power prevailing on the side of one party? If not, what aspects are stronger on side of which party?
5. Are there any possibilities for reinforcement/ weakening of power of individual parties (is there a potential of power?)
6. Are the parties aware of their current (or potential) power prevalence?

TYPES AND SOURCES OF POWER

- **Formal authority:** It is power derived from a formal position in the structure that contains the privilege of decision-making. Such power is possessed by judges, elected officials, parents, directors, etc.

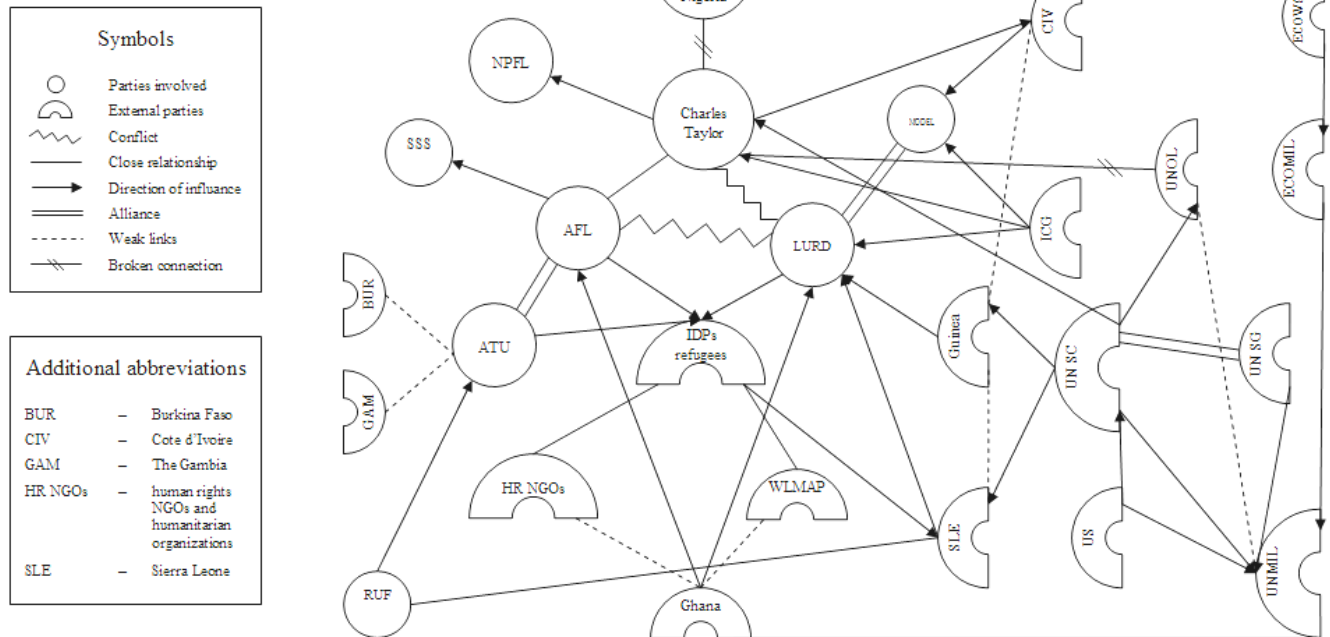
- **Power of an expert (the owner of information):** It is power derived from the possession of expertise in a very specific field, or from information on specific events.
- Power of association (reference): Power derived from connections with other people who have power.
- **Power of sources:** Power derived from control over sources of values (money, raw materials, labour, and services). The negative version of this power is the ability to prevent the utilization of the needed sources, or the power to force others to exploit the sources.
- **Procedural power:** It is power to control procedures and processes that influence what kind of decision will be taken. It is power independent from power over the decision taking (e.g. power of the judge in the judicial commission).
- **Power of repression:** Ability to put somebody in an inconvenient situation; ability to impose direct sanctions.
- **Power of habit:** Status quo kind of power, coming out of the premise that it is easier to maintain the present state of things than to change it.
- **Moral power:** Power resulting from the pressure of universally respected values. Close connection to the power of conventions that say what is good and what is wrong.
- **Personal power:** Power derived from the potential of personal qualities that support other people's sources of power, including self-assurance, ability to articulate ideas of others, understand the situation of others, understand what influences, or worries them, etc.

One of the tools for mapping all these levels of actor analysis is creating a so-called **conflict map**.

A good conflict map should demonstrate a clear picture of the whole conflict situation in a complex way, which means that in some cases of complicated multi-party conflicts, can look like this example below:

Example: ACTOR-BASED MAP ON THE LIBERIAN CONFLICT

Actor-based map on the Liberian conflict



Source: <http://haasz.org/en/2012/06/actor-based-conflict-map-on-the-second-civil-war-in-liberia/>

3.3 Conflict typology – size and causes of conflict

We can divide conflicts into several types by viewing them either from the sociological perspective or from the psychological perspective.

A) Conflict typology – sociological perspective

The sociological perspective divides conflicts into 4 types **based on how many people are involved in the conflict and against whom the conflict is directed.**

We can distinguish:

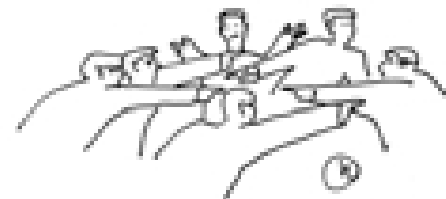
- **INTRAPERSONAL CONFLICTS** – emerge inside of one person (when someone has a dilemma and does not know how to decide, etc...)



- **INTERPERSONAL CONFLICTS** – emerge between two or more people (when there is a dispute over some conflicting opinions, needs or values between individuals, etc...)



- **INTRAGROUP CONFLICTS** – emerge among members of one group (when there is a problem inside of a collective or group of several people, etc...)



- **INTERGROUP CONFLICTS** – emerge between two or more groups (when fighting over conflicting opinions, needs or values between groups instead of individuals, etc...)

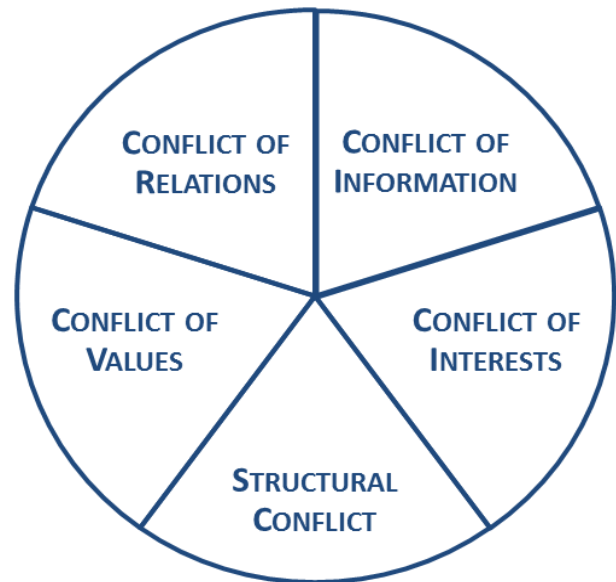


B) Conflict typology – psychological perspective

From the psychological perspective, we divide conflicts **according to the sources which caused the conflict.**

The circle of conflict by Christopher W. Moore (1989) illustrates five of the most important sources of conflicts. This typology of conflicts is a useful tool which may be used to determine which of the five spheres is responsible for determining the sphere in which conflicts are the greatest. This allows us to select an appropriate strategy and increases the probability of reaching a successful resolution for the conflict.

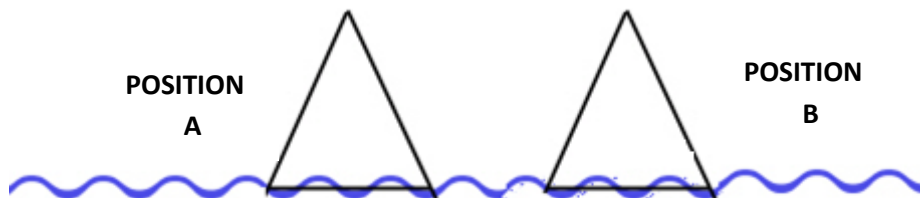
TYPES OF CONFLICTS BASED ON THEIR MAIN CAUSE



- **Conflicts of information** arise when we deal with a lack of information, misinformation, different views on data relevance, different interpretation of data, etc.
- **Conflicts of interests** are those, where there is perceived or actual competition over interests, procedural interests, psychological interests, etc.
- **Structural Conflicts** stem from unequal authority, unequal control of resources, time constraints, etc.
- **Conflicts of values** emerge because of different ways of life, ideology, religion, culture etc. , different criteria of evaluating ideas)
- **Conflicts of relations** are based on miscommunication, strong emotions, stereotyping, repetitive negative behavior, etc.

In conflict analysis, it is **important to distinguish between negotiating demands/positions and underlying, often unstated, interests and concerns.**

- **POSITIONS** are the statements of what one party is willing to give.



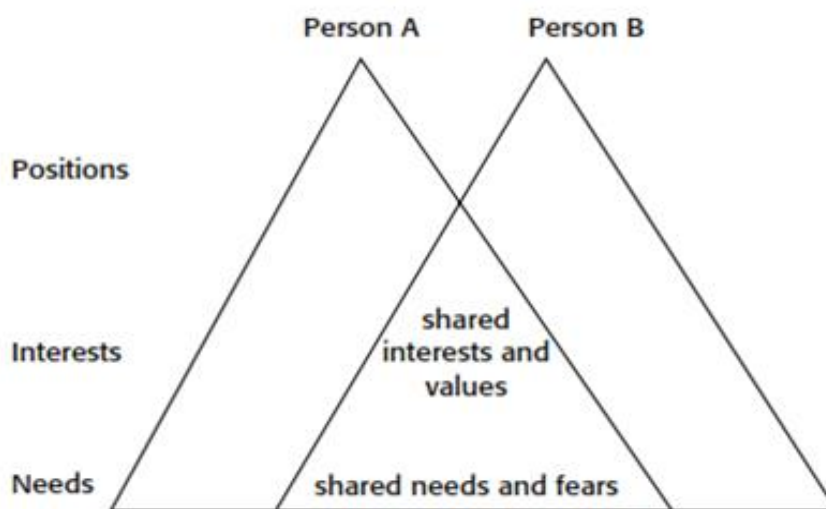
Positions are the stance you take and your proposed solution

A: "I want \$3,000 for this car"

B: "I will not buy the car unless you reduce the price."

Conflict resolution based on positional negotiation starts with two positions and attempts to find a middle ground between them, or barter until one party gives in to the other.

- **INTERESTS** are desires or goals - the things that people want to achieve in a conflict situation. Unlike people's positions which are simple statements such as "I'm pro-choice" or "I'm pro-life" (or "A" and "B") which are positions, the interests underlying those position is the answer to the question "**WHY** do you want that?" or "**WHY** do you feel that way?"



Source: from Floyer Acland, 1995: 50

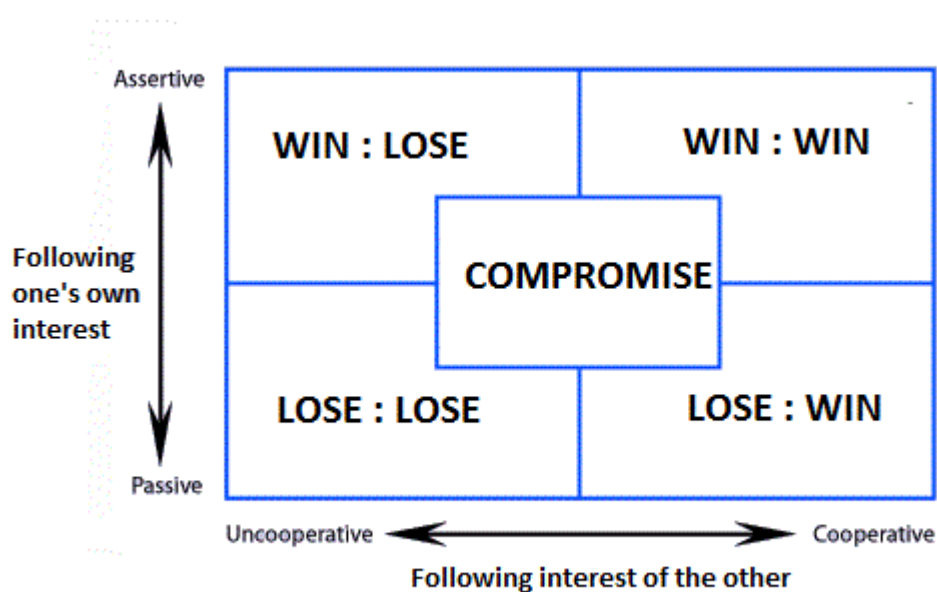
Figure 1.6 Positions, interests and needs

Many theorists **contrast interests with positions.** In their best-selling book, *Getting to Yes*, Roger Fisher and William Ury assert that almost all disputes have

negotiable interests. But when people define their dispute in terms of positions, they often appear to be highly intractable, since one side wants something that the other completely opposes. Therefore, rather than describing a dispute in terms of parties' positions about what they want, it is often helpful to redefine the situation in terms of the reasons that underlie these positions. By focusing on underlying interests rather than overt positions, apparently resolution-resistant conflicts often become solvable. This is because, in many cases, interests are compatible, even when positions are not. **Focusing on interests enables the parties to identify win-win solutions to problems** that might not have been evident when the issues were described in terms of positions.

3.5 Win : win solutions to conflicts

Western culture tends to perceive conflicts as competition. However, only a little percentage of conflicts are based on competing where a winner and loser can be clearly defined. **As a matter of fact, successful conflict resolution is based on maximizing common benefits.**



According to the scheme above, in a conflict of two parties, there are **5 possibilities of how the solution can end for both parties**. One of them can be defined as a **zero-sum game**, whilst the other four types of solutions are examples of **non-zero sum games**. In general logic a zero-sum game is one in which one person wins and the other must lose; a non-zero sum game has the possibility of both people winning.

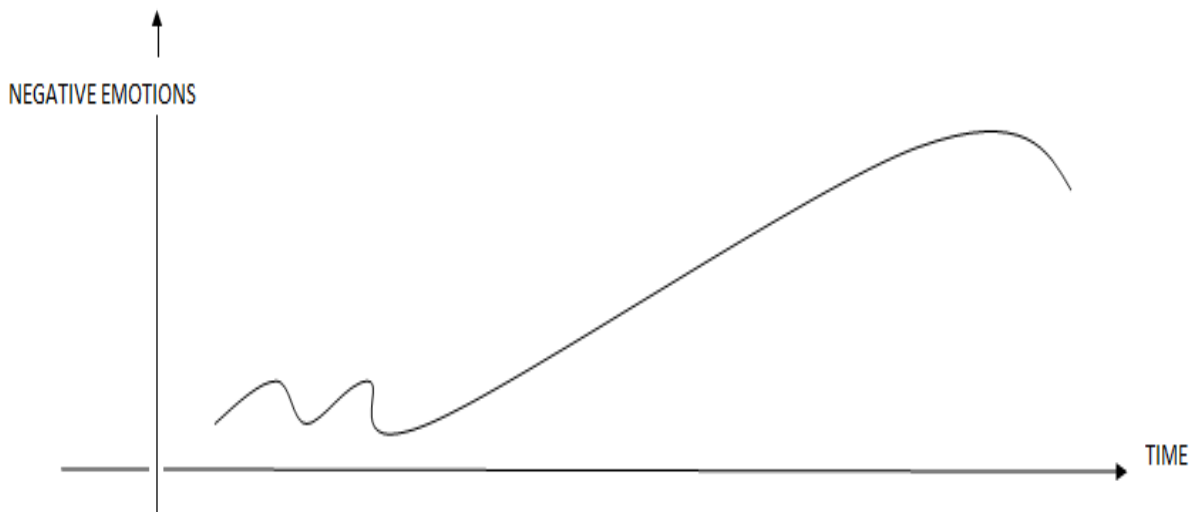
ZERO-SUM GAMES - UNMANAGED CONFLICTS

In general, the zero-sum game approach does not significantly contribute to successful conflict resolution. If both parties are not active in following their interests or in following the interest of the other party – in other words if they are behaving uncooperatively and passively – **both parties will lose.**

What is more, if conflicts are not addressed constructively (cooperatively), we risk that an unmanaged **conflict gets out of hand and changes either into disappointment/fatigue or violence.**

Just for illustration, here are two models (conflict curves) which show how the conflict might escalate into destruction when not treated constructively:

- A) Curve of conflict escalation according to V. Labath. It depicts how negative emotions (vertical axis) rise with time passing (horizontal axis) and through which stages conflict decline.

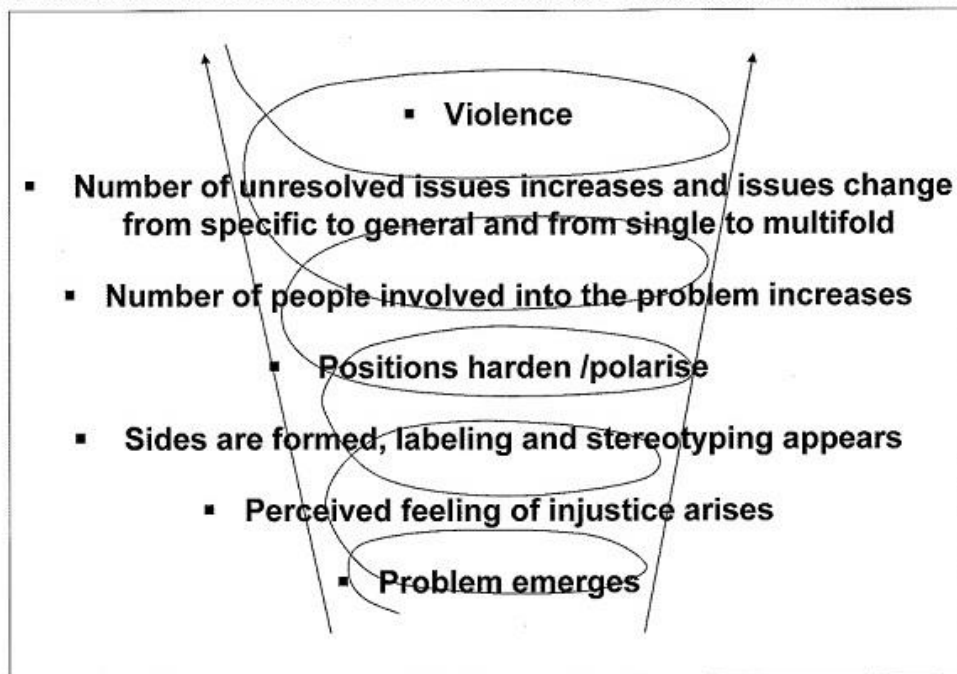


1)Symptom of Conflict	2)Discord Conflict	3)Taking Sides	4)Separation Isolation	5)Destruction	6)Disappointment/Fatigue
First emotional expressions emerge: negative feelings such tension, fear, anger... Physical expressions emerge: quick breath, stress...	One party openly expresses their critics/opinion on the matter and reveal its position	If both parties insist on their positions – they start to polarise on “opposite sides” and argue hard for their cause	Conflict gradates as well as tactics of the parties, changing into blaming, persuading, threatening and eventually isolating from each other	Conflict either escalates into physical destruction (one party/or both use violence) or psychological destruction (blackmailing...) or a material one (destroying property)	If the destructive stage takes longer, parties get tired and fall into fatigue and depression.

All the stages do not have to always be present in case of each conflict and their duration depends on the character of the conflict. Sometimes conflicts have a very quick course when some phases might be missing.

B) Spiral of conflict escalation¹ illustrates how conflicts (especially violent intergroup or interpersonal conflicts) escalate from emergence of the problem into the stage of violence. The conflict-spiral model describes the dynamic, interactive process by which individuals or groups find themselves caught up in an upward spiral of hostilities.

SPIRAL OF AN UNMANAGED CONFLICT



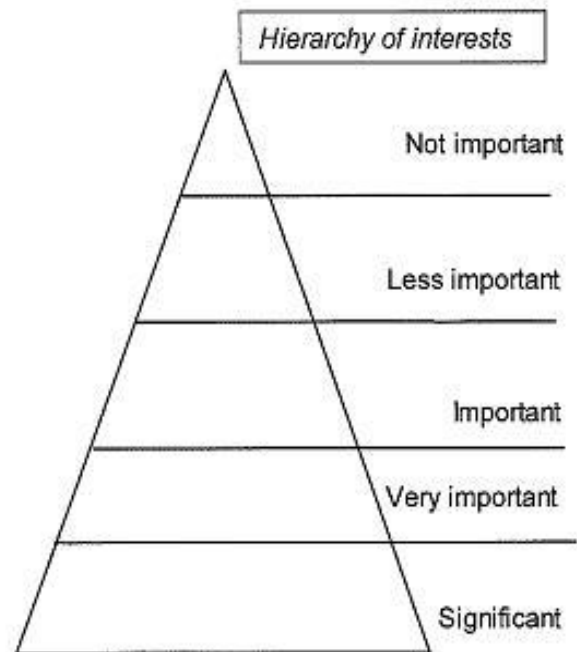
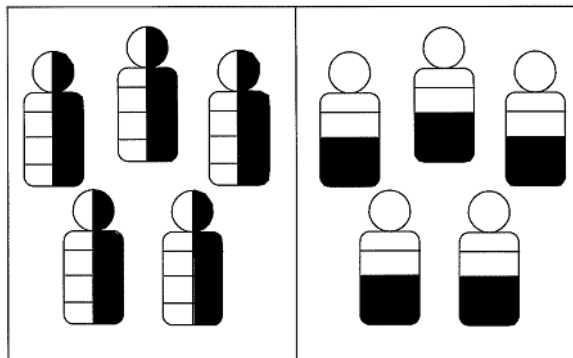
In order to prevent or avoid such vicious conflict development which ends up in frustration or violence, **effective conflict resolution should be based on treating conflicts cooperatively and actively, directed towards a WIN : WIN SOLUTION.**

¹ Adopted by S. Carpenter, "Cooperative planning and problem solving" (1996)

DIFFERENCE BETWEEN COMPROMISE AND WIN :WIN SOLUTION

Even though reaching a compromise can be partly satisfactory for both parties and is often considered a successful conflict resolution, distinguishing between positions and interests can lead us to an even better solution.

While **compromise** always includes sacrificing something important for both parties and is never felt to be 'fully satisfactory' for both parties, a **win:win solution** takes the most vital values/interests of both parties into account and disposes of those which are not so significant.



Searching for a win:win solution therefore involves digging deeper under the positions of the parties and discovering what their most significant interests and needs are.

STEPS TOWARDS A WIN/WIN SOLUTION:

- 1. Focus on the problem, not on the person**
 - be "soft" with people, be "hard" with problems
 - empathise with the partner
 - listen more than speaking
- 2. Focus on interests, not on the positions**
 - differentiate the interests: shared, conflicting or parallel?

3. **Generate alternative solutions**
 - generate solutions before evaluating them
 - allow for divergence
 - identify differences
4. **Apply objective and independent criteria**
 - search for independent criteria
 - be open for new opinions
 - use criteria for self-protection

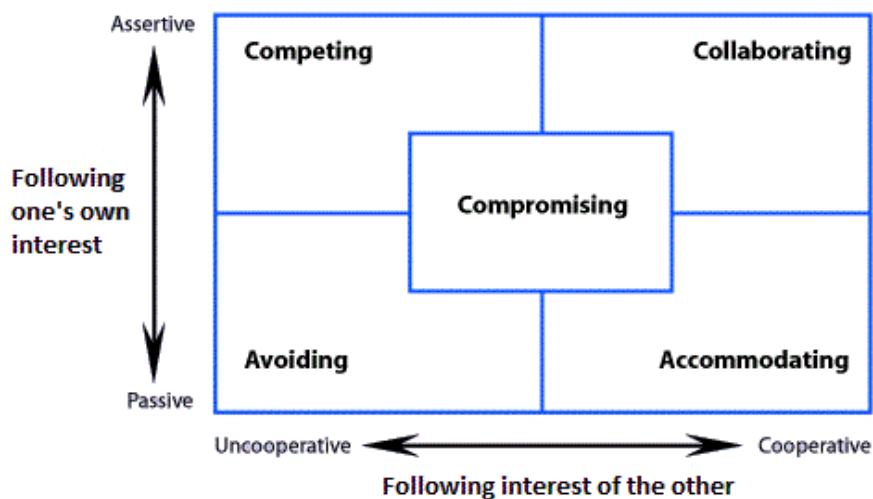
3.6 Five types of conflict resolution behaviour

In 1974, Kenneth W. Thomas and Ralph H. Kilmann introduced their Thomas-Kilmann Conflict Mode Instrument (Tuxedo NY: Xicom, 1974), according to which **there are five basic types of conflict resolution behaviour.**

The model illustrating these five conflict resolution behaviour types is based on scaling them according to two dimensions. The first dimension (the vertical axis in the picture) is concerned with conflict responses based on our attempt to get what we want, or in other words – following our own interest. It is so-called **axis of Assertiveness** starting with passive behaviour and reaching up to assertive behaviour types.

The other dimension (the horizontal axis in the picture) is concerned with responses based on helping others get what they want, or in other words – following interest of the other. It is so-called **Cooperativeness axis** which encompasses types of behaviour in conflict resolution based on how much uncooperative or cooperative they are. This setting gives us frame for 5 basic types of response to a conflict, as illustrated in the picture below:

THE 5 OPTIONS OF REACTIONS TO CONFLICTS



A part of the Thomas-Kilmann theory is also a test due to which one can find out one's profile of TKI scores. **The results indicate the repertoire of conflict-handling modes which one uses when confronted with a conflict in one's real life. The highest score indicates the most frequently used conflict behaviour mode.**

If all the scores are similar, a person cannot be characterized as using a single, rigid style of handling conflicts. Most people have some modes more present in their behaviour than others however.

DESCRIPTION OF THE 5 CONFLICT BEHAVIOUR MODES:

ACCOMMODATING:

This conflict resolution type is (based on the picture model) **unassertive and cooperative mode of behaviour. When accommodating, an individual neglects his or her own interests to satisfy the interests of other person. He or she sacrifices himself/herself and might tend to have selfless generosity or charity, obeying another person's order or yielding to another's point of view even if they would prefer not to.**

Motto: "Kill your enemy with kindness"

Uses: When you see that you are wrong; when you want harmony or credit towards a more important issue

Limitations: You may never get your concerns addressed

AVOIDING

This conflict resolution type is (based on the picture model) **unassertive and uncooperative mode of behaviour. When avoiding, an individual does not immediately pursue any interests (their own or of the other), but he or she does not address the conflict at all – for example by withdrawing from the situation or postponing the issues.**

Motto: "Leave well enough alone"

Uses: When having a confrontation would be too dangerous or damaging; when an issue is unimportant; when a situation needs to 'cool down'; or if you need more time to prepare

Limitations: Issues may never get addressed

COMPETING:

This conflict resolution type is (based on the picture model) **assertive, uncooperative and power-oriented mode of behaviour. When competing, an individual pursues his or her own interests at the other person's expense, using whatever power which seems appropriate to win his or her position. Competing can mean "standing up for your rights," defending a position which you believe is correct, or simply trying to win.**

Motto: "Might makes right"

Uses: When immediate action is needed, when you believe you are correct.

Limitations: Intimidates people so that they are afraid to admit problems and give you important information.

COLLABORATING:

This conflict resolution type is (based on the picture model) **assertive and cooperative mode of behaviour. When collaborating, an individual attempts to work with the other individual to find a mutually beneficial solution which satisfies the needs and interests of both parties. It implies discovering and identifying the underlying concerns of the individuals and finding an alternative that meets both sets of interests.**

Motto: "Two heads are better than one"

Uses: Learning from another person's perspective; helpful when you need a decision that addresses the concerns of both parties

Limitations: Not as helpful for minor decisions when time is limited.

COMPROMISING:

This conflict resolution type is (based on the picture model) intermediate in both **assertiveness and cooperativeness. When compromising, an individual intends to find a mutually acceptable solution that partially satisfies both parties. Compromising is somewhere between competing and accommodating as well as between avoiding and collaborating. It might mean splitting the difference, exchanging concessions, or seeking a quick middle ground position.**

Motto: "Split the difference"

Uses: when all else fails; for fast decision-making on minor disagreements; when two parties of equal strength are committed to mutually exclusive goals.

Limitations: losing sight of larger issues and values and possibly not pleasing anyone.

When looking at the descriptions of conflict behaviour models, we can see that each of them has its advantages and disadvantages and therefore **there is no single correct model of behaviour when confronted with a conflict. All five models can be useful in specific situations as each of them represents a set of useful social skills.** Their effectiveness depends on the conditions and requirements of the situation and on how skilfully one can use various models.

3.7 Summary of constructive conflict resolution

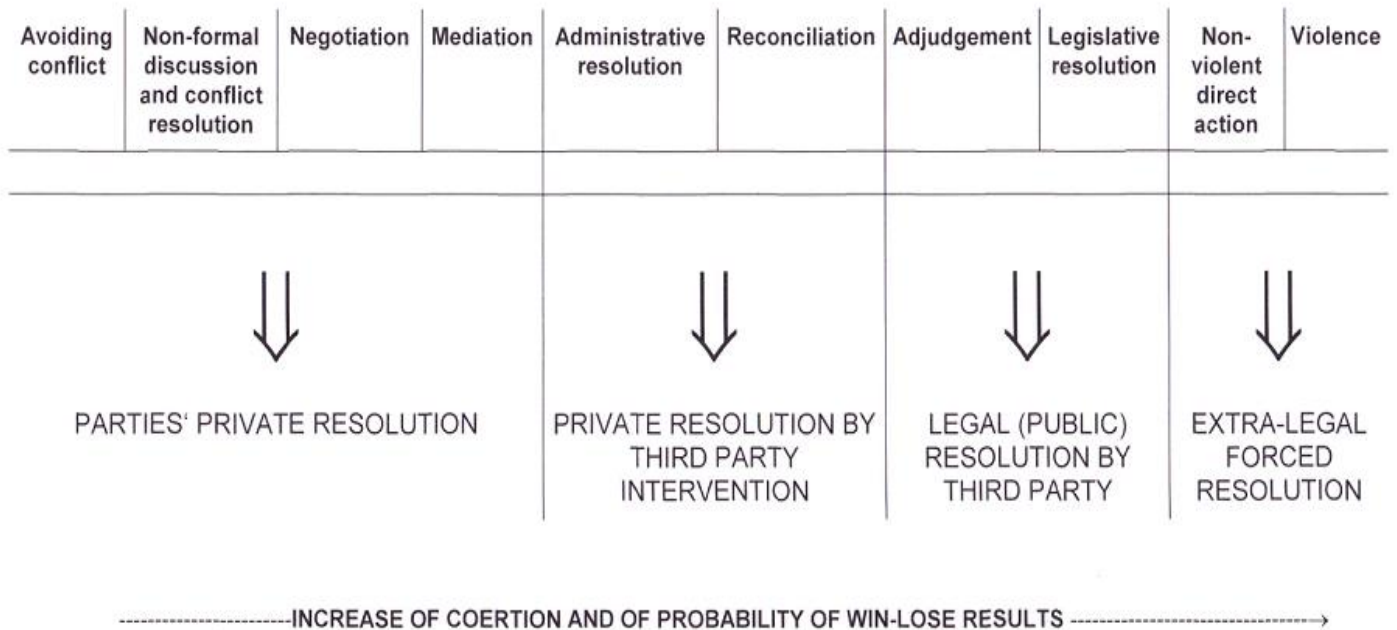
- 1) Conflicts are a natural part of people's lives.
- 2) Conflict can be a constructive (positive) or a destructive (negative) factor for people involved in it.
- 3) Conflict can be a source of changes, it hinders stagnation, stimulates interest and solving problems, verifies and re-assesses relations, shapes social system, deliberates tension, etc.
- 4) Communication is a vital but no single condition of resolving a conflict.
- 5) Factors which have influence over the conflict resolution process seem to be:
 - a) Character of parties involved in the conflict as well as their values
 - b) Previous mutual relationships of the parties involved
 - c) Type of conflict
 - d) Social environment
 - e) Presence of interested listeners
 - f) Strategies of both parties
 - g) Expected consequences of conflict resolution (positive compensation or negative punishment)
 - h) Fear of risking
- 6) Conflict develops either in a positive or negative direction in its initial stage, whilst the initial negative approach only deepens the conflict itself.
- 7) Successful conflict resolution is based on maximizing common benefits.
- 8) Conflict situations are based on realistic (objective elements) contents as well as on subjective and emotional input from the parties involved.
- 9) Fear, frustration, aggressiveness and intensive perception of conflict are not inevitable for resolving a real conflict. On the contrary – they support the subjective element of the conflict.
- 10) The closer are the relations between the parties involved in the conflict, the more intense the can conflict become.
- 11) Conflicts are inevitably present in relations based on emotions.
- 12) The absence of open conflict is not a credible proof of the strength and stability of a relationship.

- 13) Conflict with "outer groups" tends to support intragroup unity.
- 14) The more external conflicts a group (or a pair of people) have the lower the tolerance towards the intragroup behaviour of its members that it will exhibit.
- 15) Conflicts based on abstract ideas are more difficult to resolve than conflicts based on specific problems.
- 16) Conflicts directed against one group's values and morals tend to become radicalized and difficult to resolve.
- 17) Conflict of equal parties is more difficult to resolve than conflicts between parties possessing different statuses or power.
- 18) Conflict evoked by fear (or aversion) is more difficult to resolve than conflict aroused by wants and desires.
- 19) The more intensive the conflict is, the less likely it is that the parties will cooperate towards reaching a solution.
- 20) Conflicts which endanger self-respect are more difficult to resolve than those which do not.
- 21) Conflicts resolved by using force and not respecting the motivational needs will persist in a transformed form or re-emerges when the force lessens.
- 22) Competitive conflict causes deformational processes, such as a biased perception, self-deception, selective perception, etc., which contribute to the escalation and maintenance of the conflict.
- 23) In favour of a win : win solution to a conflict, each party must trust that the other follows its mutual interests.
- 24) The direction of conflict development (positive or negative) is not influenced by the external factors but by parties themselves and their values. Even one of the parties can influence the direction of conflict development.

3.8 Various ways of conflict resolution

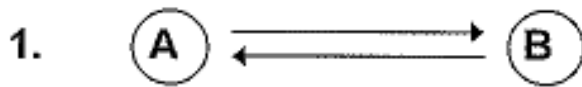
In constructive conflict resolution, there are various ways to approach/structure the process. Parties involved should consider and decide which approach is the most suitable for the type and stage of conflict. The various possibilities differ from each other in some important aspects, such as – level of coercion which they imply as well as in the leading of the process. While sometimes it is enough to leave the resolution up to the parties themselves, many times (usually in complicated and strong conflicts) **an intervention from a third party is necessary** in order to secure a cooperative approach of the two parties or to settle the conflict if it is out of control.

CONTINUITY OF MANAGING CONFLICT and VARIOUS WAYS OF CONFLICT RESOLUTION



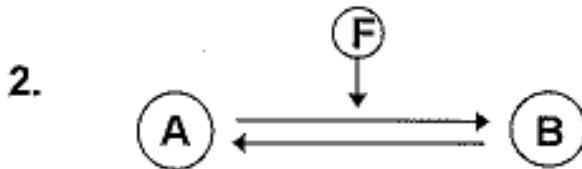
The various ways of conflict resolution are here presented in a certain continuity depending on the level of coercion and probability of win:lose results. The higher the level of win:lose results, the more likely it is that the state of mutual satisfaction of both parties will not be reached.

A SHORT DESCRIPTION OF VARIOUS WAYS TO HANDLE CONFLICT RESOLUTION



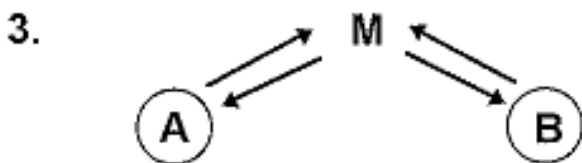
NEGOTIATION – direct communication of two parties A and B.

The solution is reached by A, B.



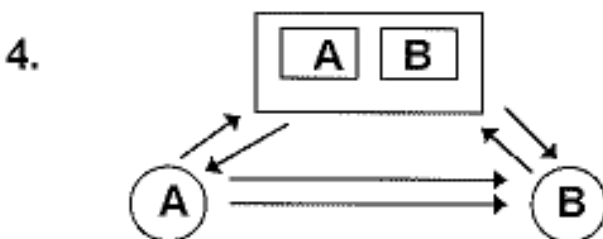
FACILITATION – direct communication of A and B with assistance of a third party – facilitator.

The solution is reached by A, B.



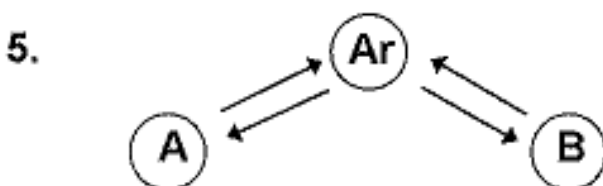
MEDIATION – assisted process of conflict resolution by a third party, after listening to both parties individually.

The solution is reached by A, B. Mediator is neutral.



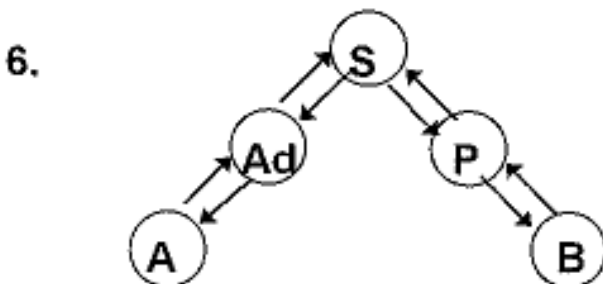
CONCILIATION – correcting the relationship of A,B by their neutral representatives in the way that both parties are present in conciliation commission but not directly.

The solution is reached by A, B present in the process.



ARBITRATION – conflict settlement by a third party which decides upon the result after listening to both parties.

The solution is reached by arbiter.



ADJUDICATION– A,B communicate indirectly – through their advocate (Ad) and procurator (P).

The solution is reached by judge.

EXPLANATION OF THE PICTURE:

A, B – parties involved in conflict
F – facilitator
M – mediator

Ar – arbiter
S – judge
Ad - advocate
P – procurator
A,B in squares – members of conciliation council

HOW TO ASSESS IF CONFLICT RESOLUTION WAS OVERALL SUCCESSFUL?

You can say that the conflict was settled in the way which confines all the parties involved and therefore was successfully resolved by asking these questions:

- 1) Does the solution consider all sets of short-term needs and the long-lasting relationship of all parties involved in conflict?
- 2) Have both parties examined all possible solutions which would enable both or one of them to get out of trouble without any negative (antagonistic) consequences against the other party?
- 3) Has the solution been reached at with the fewest number of transactions in regards to the preferred result?
- 4) Can the solution be realized or does it imply other problems which must necessarily be resolved? Do both parties accept the result without feeling dissatisfaction?
- 5) Was the solution reached based on the willingness of both parties to participate in negotiation (or other processes) and influence it?
- 6) Is the solution just and fair? Does each party consider the other party's conditions legitimate and do they accept them as morally justified?

4. MEDIATION

MEDIATION is a process in which two or more parties meet with a neutral third party, who guides the negotiation process by helping the parties identify their interests, needs and concerns, and assisting the individuals in resolving their conflict in a way that is mutually acceptable to the parties.

It is the intervention into a dispute or negotiation of an acceptable, impartial and neutral third party who has no authoritative decision making power, to assist contending parties to voluntarily reach their own mutually acceptable settlement of issues in dispute. The mediator helps people in conflict to coordinate their activities and be more effective in their bargaining.

Mediation is mostly needed when disputants are not able to communicate with each other anymore without the assistance of a neutral third party.

Mediation is the voluntary, confidential, informal, flexible and structured process, in which the disputing parties meet with a mediator to resolve a dispute. It enables the parties to focus on the future and fully control the dispute resolution. A mediation session usually takes two or three hours. In some conflicts further sessions are necessary.

The result of the mediation is usually a clear and implementable agreement of the parties, which may include a wider range of proposals than court decisions. Attorneys or representatives of the disputing parties can take part at the mediation sessions.

A mediator is a trained person with special mediation skills. He/she is responsible for the process, he/she leads and facilitates the negotiation, he/she helps to find solutions, he/she supports the discussion and is a "catalyst" for the constructive direction of discussion and reaching constructive solutions.

The mediator is trained to:

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

Mediation is:

- **neutral**
- **non-judgmental**
- **confidential**
- **self-determined**
- **future-oriented**

PRINCIPLES OF MEDIATION

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

2. INFORMED CONSENT is the principle that affirms parties' right to information about the mediation process and their legal rights before consenting to participate in mediation or to the terms of an agreement reached in mediation.
3. SELF-DETERMINATION is the principle that recognizes that parties in a dispute have the ability and right to define their issues, needs and solutions and to determine the outcome of the process without unwanted advice or suggestions from mediators. The parties have the final say as to the terms of any agreement reached in mediation.
4. IMPARTIALITY/NEUTRALITY is the principle that affirms the parties' right to a process that serves everyone fairly and equally and to mediators who refrain from perceived or actual bias or favouritism, either by word or deed.
5. CONFIDENTIALITY is the principle that guarantees all information received from the parties will be kept confidential. Any exceptions to confidentiality shall be made clear to the parties prior to their consent to participate in mediation.

4.1 Mediator characteristics

Listening like a mediator takes a great deal of energy and concentration. At the end of mediation a mediator may feel exhausted yet also elated, because active, empathic, listening works so well to help achieve their goals and recognize each other's perspectives.

Some basic principles connected with just mentioned listening skills which should be followed by a mediator in order to assure an effective mediating process are as follows:

"WHEN THE PARTIES TALK... MEDIATORS LISTEN TO..."²

1. **Conveying respect and interest.**
2. **Setting an example with respectful listening.**
3. **Conveying empathy.**

² (Courtesy of Albie Davis)

- 4. Reflecting back to the parties the perspectives they are offering.**
- 5. Discovering underlying cause of conflict.**
- 6. Uncovering misunderstandings.**
- 7. Discovering parties' interests.**
- 8. Identifying the parties' "terms" or "positions".**
- 9. Learning the parties' responses to offers.**
- 10. Discovering what the parties have in common.**
- 11. Discovering positivity to share.**
- 12. Discovering room for movement.**
- 13. Reflecting parties' expressions of recognition.**
- 14. Discerning a readiness to move forward.**

Mostly, mediators listen. When they speak, they do so purposefully and with practice, they enable parties to reach their goals. Hard work, but worth the effort!

WHEN MEDIATORS TALK... THEY SPEAK TO...

- 1. Set the parties at ease and earn their trust.**
- 2. Make sure the mediation process is clear.**
- 3. Draw out the parties' views of the conflict.**
- 4. Give evidence they are listening, understand and care.**
- 5. Help the parties hear one another.**
- 6. Help parties explore the tensions between them.**
- 7. Explore the nature of the relationship between the parties and any expectations they have for future interactions.**
- 8. Explore underlying causes of conflict.**
- 9. Helps parties articulate their expectations for mediation.**
- 10. Find out each party's interests.**
- 11. Find out the limitations the parties must work within in developing an agreement.**
- 12. Reframe the issues so that they can be better understood.**
- 13. Help the parties invent options for mutual gain.**

14. Check with each party their receptiveness to various options.
15. Transfer information with sensitivity and a sense of timing.
16. Share positives.
17. Explore the consequences of various options.
18. Keep up the parties' morale.

4.2 Process of mediation

There are several stages of a mediation process, which should follow in certain order:

1. OPENING THE MEDIATION
2. TELLING STORIES
3. IDENTIFYING ISSUES & SHAPING AN AGENDA
4. GENERATING OPTIONS
5. MAKING DECISIONS
6. WRITING AGREEMENTS
7. CLOSING STATEMENTS

1. OPENING THE MEDIATION is a first stage of a mediation process which includes:

- Introducing, explaining the process.
- Agreement about the cooperation with A, B.
- Separated and joined proceeding
- Agreement about the regulations.

2. TELLING STORIES is a stage when the mediator deals first with party A and then with a party B.

a) In dealing with party A, the party B is or is not present. The process is based on:

- listening to party A
- asking open-ended questions
- clarification

- focus on feelings
- identification of interests
- summary

b) In dealing with party B, the party A is but does not have to be present. The process includes:

- listening to party A
- asking open-ended questions
- clarification
- focus on feelings
- identification of interests
- summary

3. IDENTIFYING ISSUES & DEVELOPING AN AGENDA - mediator facilitates communication between A and B.

- selection of the topic and discussion about it
- parties A and B listen to each other - facilitation of communication
- repeating
- exchange of roles
- confirm of the opinions
- summarisation

4. GENERATING OPTIONS is a stage when A and B concentrate on the options, by:

- reformulation of the problem so that it interests of both parties A and B
- looking for the solutions (brainstorming, postponing of the meeting, separation of the party A and B)

5. MAKING DECISIONS - A and B focus on the agreement by defining:

- connecting priorities
- agreement about solutions
- concrete: who, where, when, how
- summarisation and signing of the agreement
- the test of the agreement
- closing

6. WRITING AGREEMENTS

- writing a draft (using neutral words, avoiding contingencies, writing legibly)
- listing agreements separately
- clarifying agreements
- sticking to behaviour and actions
- keeping the goals SMART (specific, measurable, achievable, realistic, timed)

7. CLOSING STATEMENTS

- summarizing the outcomes and overall progress
- positive sum up of what has been accomplished
- acknowledging participation
- listing remaining difficulties/options
- encouraging follow-up on the agreements (e.g. scheduling another session, setting the date for the next session, defining interim tasks)

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