

MAHARASHTRA NATIONAL LAW UNIVERSITY MUMBAI

MA IN MEDIATION AND CONFLICT RESOLUTION

Abstract of Course Modules

Paper 1 – Mediator Training

Being a practical subject deeply rooted in theory, this module is designed to introduce participants to the process of mediation. Besides providing a crash course on the essential skills and techniques for a mediator, participants will develop a firm understanding of the peculiar role of the mediator in the field of dispute resolution. Participants will reflect on the different approaches to conflict – power, rights, interests, needs – and also study how perceptions and beliefs of the different stakeholders impact the escalation and de-escalation of the dispute. The module will further lay out the ideal mediation process, defining the elements that characterize the different stages in the process.

Key communication skills will be introduced to the participants through group exercises, and participants will be tested on effective communication techniques such as listening, displaying empathy, looping questions – with focus on both, verbal and non-verbal communication. Participants will also learn to discern the difference between positional-bargaining and interest-based negotiation. Through illustrations and role-plays, participants will also attempt different styles of negotiating.

Paper 2 – Philosophical Roots of Mediation and Conciliation

This paper is dedicated to exploring the theoretical origins of conciliatory forms of dispute resolution. Prior to studying concepts of mediation, the second paper in the course module will make participants will understand why this path of dispute resolution stands out from alternate adversarial schools of thought – on the basis of theories, moral and philosophical debates and perspectives. The paper will also touch upon the socio-cultural impact on the development of the consensual form of conflict resolution.

Participants will be introduced to the concepts of common law, civil law and principles of equity and justice, and how culture, customs, norms and values help shape society's acceptance of dispute resolution methods. Participants will enjoy debating the balance between uniformity and diversity in a community context and reflect on non-violent studies from a variety of Indian perspectives. While scholars in their own field guide participants on the ideas of justice, power and non-violence, there will also be discussion on acceptable and unacceptable methods in the pursuit of such ideals.

Paper 3 – Models of Mediation

This paper aims to initiate the participants into the world of diverse mediation models, which are reflected in the practical styles engaged by mediators. The paper will delve deep into literature to decipher the nuances that distinguish each model from the other. Eventually, at the end of the course, participants might choose to adopt a particular approach – facilitative, evaluative, transformative, diagnostic, narrative, etc. - as a signature style in their practice. Some participants might choose to use a blend of styles; therefore, this paper will also discuss the necessary considerations in choosing a style.

The paper will nurture the participants' understanding of the working of each model by evaluating the advantages and limitations in the process design. Through supervised role-play simulations, participants will attempt to practice each model of mediation and also learn to construct and deliver feedback.

Paper 4 – Research Study of Dispute Resolution Institutions in India

This paper aims to acquaint participants with the various dispute resolution platforms currently operating in India. Serving a dual purpose, this paper will test participants beyond simple reading, and familiarize them with basic post-graduate research methodology. Therefore, the studying technique will now be expected to be more academic, with participants trained to identify primary and secondary sources of knowledge, practically trained in data collection methods, and further guided in data analyzing and report writing.

Having picked up research skills, participants will be expected to study the different dispute resolution platforms such as panchayats, lok adalats, ombuds, commissions, police authorities, tribal conflict resolution models, etc. For a final task, participants will be expected to present a research paper related to an active conflict resolution model in India.

Paper 5 – Scientific Approach Towards Decision-making

Decision-making is an involuntary and inevitable part of our lives, but conflict resolution professionals are expected to make strategic choices, whether in dealing with future projects or past problems. As a mediator, you are expected to guide the participants in decision-making, therefore it is important that participants master a variety of practical skills. Not only will it make you a better negotiator yourself, it will also help you spot these skills when employed by others and you will be prepared to counter them effectively.

This paper will train participants in a variety of decision-making and creative thinking techniques. Since the responsibility of making decisions in a mediation lies with the disputants, the end goal is to learn different means of aiding parties in their decision-making. Expert faculty will guide participants in non-violent communication, appreciative enquiry, active listening, emotional intelligence, neuro-linguistic programming, etc.

Paper 6 - Specific Negotiations I - International Negotiations & Diplomatic Bargaining

Diplomatic negotiations are intriguing, and learning from such discussions is fascinating. Participants will be provided an insight into the art of diplomacy, with specialized faculty dissecting international conflicts and their conclusions. The paper intends to get participants to appreciate the intricacies of Negotiations in International Relations and nurture leaders with specific skills in dealing with a diverse range of representatives.

The paper will help participants in differentiating between conflict management and conflict resolution – and when is the best time to employ either strategy. Experts will touch upon specialized negotiations – kidnappers, terrorists, trans-national criminals, etc. There will be specific focus on war negotiations and dialogue at international forums such as WTO and UNO. Participants will engage in mock diplomacy settings and test skills and strategies.

Paper 7 – Specific Negotiations II – Business, Workplace, Criminal & Community

This paper will continue to focus on specific negotiations with emphasis on particular industries and sectors of business and society. Participants will gather an understanding of basics of employer-employee conflicts and labor union disputes, with an opportunity to study

and analyze popular cases. The paper will explore the nuances of deal-making, with focus on case studies of major business deals.

The second half of the paper will discuss political conflict resolution – between states, federal units or parties. The concept of lobbying will be broken down from a negotiation context. Participants will also discuss the ethics and morality in negotiations related to economic and social crimes, and the legitimacy of plea bargaining in criminal cases.

Paper 8 - Observational & Reflective Practice (Internship)

Participants will have to spend the summer observing mediations as part of a practical internship. The paper is aimed at developing observational and reflective skills. The participants will have to present a reflective journal of their internship experience.

Paper 9 – Indian studies in Dialogue and Conflict Resolution

The third semester, and the beginning of a new academic year, is an opportunity for the participants to study the fascinating roots of dialogue in India. The paper aims to acquaint participants with the timeless techniques of conflict resolution, and encourage innovative thinking and application to blend these principles with existing practices. Participants will be tested to research the continuing relevance and scope of these classic methods in contemporary India.

Participants will be introduced to the classical Indian tradition of discussion, where they will learn the different kinds of dialogues, related to readings from the Vaadashastra. There will also be dialogue sessions based on the nature of universe, karma theory and human behavior. The class will also discuss Chanakya's model of conflict resolution - based on the 'Artha-Shastra' – setting goals, building clarity, dealing with obstacles, perseverance, etc.

Paper 10 - Conflict Analysis in the Modern Socio-Political-Legal Paradigm

Conflict transcends fields of study and research, and therefore participants will be sensitized on the social, political, cultural and economic dimensions of conflict. This paper aims to expose the student to western rhetoric, the nuances of figures of speech, phrasing and discourse. Participants will be encouraged to devise means of applying rhetorical strategies in conflict resolution, after understanding the role played by language in shaping and redressing conflict in contemporary times.

Social conflicts are couched in caste, religion, economy, ideology and race, and participants will get a chance to analyze them. The paper will also outline the scope of mediation in environmental conflicts and the consequential cross-cultural conflicts, rising from migration and nationalism. Participants will also explore the prospects for mediation in trans-national corporate conflicts and business rivalries related to international politics.

Paper 11 - Psychological and the Cognitive Understanding of Conflict

This paper aims to introduce the fundamental of the human mind, cognition and reasoning, with the goal of cultivating a conscious aptitude among the participants to seek to understand the person behind the problem. Participants will be acquainted with cognitive and behavioural sciences and debate the nature vs nurture theories of human behaviour. Participants will also discuss and self-evaluate their preferred response to conflict, based on relevant theories by Thomas Kilman, Walter Cannon, and other researchers.

Participants will explore the scientific Indian studies of cognition, knowledge and behaviour with special focus on Patanjali's exposition on the human mind. Participants will also discuss psycho-analysis and psychotherapy from the writings of Freud, Carl Jung, Sinner, Maslow and others, and study the benefits of such learnings in mediation practice.

Paper 12 - Psycho-Neuro-Cognitive Development of a Conflict Resolver

This paper is aimed at helping participants develop a moral compass of mediation practice. Deep self-reflective practices will help participants will learn to cultivate their own set of standards of practice as mediators and conflict resolution professionals in their own fields. The goal is to train a conscious mediator, open to feedback and criticism. Ethical perseverance requires mental strength and therefore the faculty will also focus on building self-esteem and self-accomplishment goals for participants.

Participants will be guided in cultivating a strong emotional intelligence and a firm understanding on the principles of neutrality. The paper will also instruct participants on techniques in mutual-respect, and discuss matters of integrity and fair practice. Keeping with the theme of self-growth, participants will also learn to deal with inner conflict and practice the art of mindfulness.

Paper 13 – Legal Status of Mediation: A Global Perspective

It is important to get a complete schooling on the growth of modern-day mediation practice. Participants will familiarize themselves with the existing international laws and treaties related to mediation and study in detail the different legislations in India that recognize mediation. The aim is to provide the participants a complete knowledge of the present legal status of mediation in the world.

The paper will focus on the modern beginnings of mediation and its adoption by judicial systems across the world. Participants will study and compare international laws and conventions and their implications. The paper will also discuss the nuances of execution of mediation settlements in local and foreign jurisdictions. The legal literature in this paper will be simplified for participants who do not possess a prior education in law.

Paper 14 – Future of Mediation – ODR & Artificial Intelligence

This paper will introduce the emerging trends of mediation practice in India and abroad, with specific focus on online systems for conflict resolution. The paper will introduce the intricacies of conducting a mediation session online and help participants design a specific set of ground rules exclusive to online mediation. The paper will also study existing online dispute resolution forums and discuss the success and limitations of their operations.

Participants will also study the scope of artificial intelligence in dispute resolution and the debate the role of the mediator in conflict resolution. The paper will also discuss ethical considerations, credibility and accountability of such models of dispute resolution. The goal of the paper is to explore the possibility of limited physical presence of the mediator in early dispute resolution measures.

Paper 15 – Conflict Resolution: The Religious Lens

This paper will expose participants to the topic of faith and the impact of religion on conflict and conflict resolution. Participants will familiarize themselves with the basic learnings of various religions in relation to peace and tolerance. It's an opportunity to acquire diverse and parallel perspectives into conflict resolution mechanisms designed and practiced within certain religious traditions. The goal is to get participants to appreciate the similarities and respect the differences between religious cultures with regard to conflict resolution mechanisms employed over the years.

Xenophobia is on the rise and as a mediator, it is necessary to understand the mental and emotional baggage they carry to the table. Learning to be receptive and empathic to extreme ideologies will empower mediators to deal with racially tense moments during a mediation. Participants will study the popular rituals in different religions – their value and risks, and also develop a professional attitude in dealing with bigotry. The paper will also help participants debate the advantages and disadvantages of liberalism and develop larger perspectives than what is currently fashionable in society.

Paper 16 – Restorative Justice

The final paper of the course will provoke students to investigate the application of conflict resolution concepts in the criminal justice system. The aim is to stimulate the mind in using dialogue as a parallel coping and healing mechanism, exclusive of the criminal proceedings. The paper will introduce participants to restorative justice programmes and platforms in India and around the world, and discuss the adaptation of such programmes to criminal justice.

Participants will attempt to design and facilitate restorative conferencing in mock role-plays. The paper will also debate the theory of deterrence vs the theory of incentive. Participants will study the basics of criminology and the paper will also introduce and debate the success stories of restorative justice models in major crimes such as wars, genocides, terrorism, etc.

Note:

The two-year course curriculum consists 16 core papers, spread across 4-semesters. Each paper will be evaluated separately. The evaluation criteria will be communicated to the students at the beginning of each paper. Class participation for each paper is compulsory. The teaching pedagogy and contents of each paper might be modified, keeping in mind the logistics. Any changes in syllabus, pedagogy and evaluations will be communicated in advance to the students. The lead tutors for each paper will be announced shortly. Check the MNLU Mumbai website for regular updates.