SHARE YOUR PEACE

STRATEGIC PARTNERSHIP IN THE FIELD OF YOUTH

MODULE 6

NEGOTIATION AND MEDIATION AS CONFLICT RESOLUTION TOOLS

Erasmus+

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Content

I. Introduction: What are Negotiation and Mediation?

Conflict is part of everyday life. Whether you are eight or eighty, conflict is experienced in the home, work and even during leisure time. Differences in opinion arise whenever people are interdependent. Therefore, the greater the interaction is, the greater the risk of conflict could be. Resolving conflict really matters. Failure to address conflict is enormously damaging and stressful to those directly and possibly indirectly involved. Good dispute resolution means that both parties experience a satisfactory reduction in anger and a sense of fairness. So within our module we will discuss negotiation and mediation as successful tools of resolving the conflicts.

This module presents an overview of the negotiation and mediation and its practical use in youth work. Negotiation and mediation are procedures for resolving opposing preferences between parties. Negotiation involves discussion between the parties with the goal of reaching agreement. There is no limit to the number of parties ("disputants") who can take part in negotiation, but two-party negotiations are the kind most often studied. Mediation is a variation on negotiation in which one or more outsiders ("third parties") assist the parties in their discussion. Since mediation is a special case of negotiation, and since the negotiation literature is more voluminous, we will treat the topic of negotiation first.

Opposing preferences are found in all social arenas, from relations between children on the playground to international relations. Hence a theory of negotiation and mediation is essential for understanding topics as diverse as marital decision making, industrial relations, interoffice coordination, corporate mergers, group decision making, and international relations.

Negotiation and Mediation e-learning material consists of a theoretical and a practical component. It is a skills orientated module, designed not only to expose youth workers to the practical skills required during negotiations and mediations, but also to provide a theoretical context for such skills and the analytical skills to adapt to various circumstances. Particular emphasis is placed on developing group, inter-personal and problem-solving skills. Youth workers will also be able to develop a range of broader, transferable skills for dealing with issues of professional and personal life.

II. The Negotiation process

Negotiation is a common way for people to resolve problems and deal with conflict. It happens when people wish to talk to each other to find a solution to the problem. Sometimes negotiation is very informal, and it happens within everyday situations. It can also be a formal method of conflict resolution used to resolve interpersonal, intergroup and interstate conflicts.

Negotiation:

- happens when there is a problem, a conflict of interest or a common concern between parties;
- is appropriate when the parties have a more or less even power balance, because each group has something the other wants;
- happens when the parties want to reach an agreement;
- is an interactive process;
- requires parties to identify the issues of a conflict, educate each other about their needs and interests, come up with possible settlement options and bargain over terms of a final agreement.

Negotiation is:

1. Communication back and forth for the purpose of making a joint decision.
2. A way of finding a mutually acceptable solution to a shared problem.
3. Achieving an ideal outcome: a wise decision, efficiently and amicably agreed upon.

Options for negotiation style are:

- Hard (controlling)

Hard bargaining is adversarial—you assume that your opponent is your enemy and the only way you can win is if he or she loses. So you bargain in a very aggressive, competitive way.

- Soft (giving in)

Soft bargaining is just the opposite. Your relationship with your opponent is so important that you concede much more easily than you should. You get taken advantage of in your effort to please, and while agreement is reached easily, it is seldom a wise one.

Good negotiations consist of a relentless search for the Third Alternative:

We humans are presently conditioned to expect our relationships to be win/lose.

– View most situations from an "either/or" point of view: either I win or I lose

– It has to be one or the other.

There is a third alternative.

– May be harder to find, but there almost always exists a third way of doing things where no one loses

– Or at worst are assured that the loss has been minimized and fairly shared

Minimizes and distributes the loss so it has the least negative effect

This is the win-win way—this is synergy.

Sources of power in negotiation are:

- Developing good working relationships among people negotiating
- Understanding interests
- Inventing an elegant option
- Using external standards and benchmarks
- Developing a good BATNA
- Understanding their BATNA

Making a carefully crafted commitment: an offer, something you will do, something you will not do.

The stages in a Negotiation Lifecycle are depicted in the chart below. It is not always a given that negotiations should happen, especially if the status quo is fine or other alternatives exist. But if needs exist for opposing parties to reach a mutual solution, engage dutifully in each step in the lifecycle.

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Negotiation Lifecycle

- Identify the issue
- Define the problem
- Decide whether to negotiate, dominate, acquiesce or avoid

- Understand the problem
- Define goals
- Build relationships
- People/roles
- Use standards
- Define your BATNA & improve it
- Define their BATNA & worsen it

- Generate alternatives
- Evaluate alternatives
- Select
- Reiterate agreements
- Capture agreements in writing
- Create an action plan & timeline

- Congratulate the other parties (never gloat)
- Follow up to assure the action plan is implemented
- Carry out the agreed upon solution

- Nurture relationships
- Check compliance (build this into the agreement!)

Approaches to Negotiation

The typical approach to settling disputes by negotiation is that of positional bargaining. We're all familiar with this approach: opposing parties make demands (take up a position) and then haggle and bargain until they reach an agreed compromise position, somewhere in the middle of their opposing demands – for example, bargaining over the amount of money that will be paid for release of hostages.

But is this way of negotiating the best approach to resolving conflict, or even the only way of going about it?

Traditional approaches to negotiation, especially in a highly volatile conflict situation, can quickly lead to the parties staking out inflexible positions, between which there lies an unbridgeable divide. Are there any other alternatives?

What's Wrong with This Approach?

Conventional negotiation approaches imply giving away as few compromises from one's opening position as possible, and deceiving the other party as to one's true views. It involves stacking up a number of composite decisions against each other so as to have bargaining power, and slowly giving away concessions in small increments.

An Inefficient Approach

A number of strategies and tactics is used to make this process more effective. Parties are encouraged to hide their real interests and to stake out extreme positions at the beginning of a negotiation, to minimise the risk of losing too much in the process. The back-and-forward bargaining process is often slow, and there is a risk of no agreement being reached.

Unwise Agreements

Positional bargaining tends to be an adversarial approach to negotiation that locks parties into positions, ties egos into positions so that 'saving face' becomes more difficult, and where parties' real interests are given less and less attention in the struggle to 'win' by achieving maximum concessions from the other party.

Endangered Relationships

Positional bargaining is a test of will, and puts outcome above relationship. Being 'nice' is no solution – it makes one vulnerable to someone who is playing 'hard' in a bargaining situation. In large multilateral negotiations, positional bargaining becomes even more complex, and derailing the negotiations becomes easier for a party that is not getting what it wants.

Finding an Alternative Approach

Harvard professors Fischer and Ury's seminal book, Getting to Yes, changed the face of negotiation the world over. They argue that the positional bargaining approach to negotiation is inefficient at solving problems, and that the agreements reached in that way are often poor compromises for everyone – and don't last.

They argue that any method of agreement should be judged by three criteria:

1. it should produce a wise agreement, if agreement is possible;
2. it should be efficient – bringing a problem to resolution quickly; and
3. it should improve, or at least not damage, the relationships between the parties.

They suggested an alternative, which has since been called by a variety of names, including: principled negotiation, negotiation on the merits, interest-based bargaining or joint problem solving.

There are four basic principles of this approach to negotiation:

1. PEOPLE: separate the people from the problem (this may be highly foreign in a communal context, but suggests finding ways to maintain and build relationships while, at the same time, resolving problems);
2. INTERESTS: focus on interests, not positions;
3. OPTIONS: generate a variety of possibilities before deciding what to do; and
4. OBJECTIVE CRITERIA: insist that the result be based on some objective standard.

We believe that this interest-based approach is the most sustainable method of negotiating, particularly in a highly-charged conflict environment, but it involves quite a different way of thinking about negotiating, which you will learn in this e-learning course. It can be used in many different scenarios, however, where:

- negotiation will take place between strangers;
- there is no future relationship;
- there is only a single issue at stake, such as price;
- the process of considering interests or options is considered too slow or costly…

…then simple positional bargaining may be the quicker and more appropriate approach;

Best Alternative To a Negotiated Agreement (BATNA)

When negotiating using a traditional positional approach, each party decides before beginning (and revises during negotiations) what their bottom line is going to be. They accept they will make concessions on their demands, but this is the point they will not cross.

In a positional bargaining situation, where there is no overlap between the bottom lines of opposing parties, this can mean only one thing – the negotiation will deadlock.

Utilising BATNA in negotiations means being aware at all points in the process what your best alternatives are to the current proposed agreement.

An interest-based approach suggests, instead, that parties consider their Best Alternative To a Negotiated Agreement (BATNA). BATNAs exist in the real world, not in fantasy-land. It is the best actual, real alternative the party has at that point.

History

The Best Alternative to a Negotiated Agreement is developed by Roger Fisher and William Ury in the year 1981 through their book named “Getting to Yes; Negotiating without giving In.” In the book, they talk about the concept of BATNA by explaining that it is the best possible next step if the negotiations failed and also the importance of analysing the best possible alternative and alternate plan. Nash Equilibrium also explains the importance of negotiation when no alternative is available in the book named game theory.

Features of BATNA

Aid in Determining the Importance of Negotiation: It helps determine the best alternative in case of an unsuccessful negotiation deal. If no alternative is available or the cost of the alternative is more than the current cost of the deal. Then it helps in determining the importance of the negotiation deal.

Analyze the Best Alternative: It helps to analyze the best alternative from all the alternatives available to gain the maximum.

When the BATNA is quite strong, it is possible to negotiate for very good terms, since the alternative to walking away from the negotiations is still quite a good outcome. Conversely, if the BATNA is weak, the bargaining position is weak, since there is no good alternative to fall back on. Given the importance of BATNA, one should take certain steps in order to arrive at a better negotiating position.

These steps are:

Enhance your BATNA. Scout for alternatives to the current BATNA to see if it can be improved. If there is no BATNA at all, then create one.

Uncover the other party's BATNA. If you can discern the other party's BATNA, you will see if they are operating from a position of weakness or strength. In the former case, this may result in a more aggressive bargaining stance. This information can be difficult to obtain; possible sources are annual reports, industry publications, and industry insiders.

Weaken the other party's BATNA. It may be possible to weaken the alternatives available to the other party. For example, a prospective acquirer may think that it can play the company off against another buyer in order to drive up the purchase price. The company could acquire the other buyer, leaving the acquirer with few alternatives.

Here are some tips on leveraging BATNAs:

The BATNA is a unilateral option that does not depend on the consent of the other party.

The more BATNAs you have and the more willing and ready you are to execute one, the less likely you will need a BATNA.

Consider short-term and long-term BATNAs. Sometimes you don't have a BATNA and must reach agreement. Be sure to continue working on a long-term BATNA for future use.

Having well thought-out BATNAs that you are willing to execute provides you with a tremendous amount of power during negotiations.

You want to find a graceful way to ensure the other side knows you have BATNAs and will execute.

Start to let the other side know you have BATNAs during the Exchange stage, although not necessarily what they are. In Bargaining, you will decide if and when to reveal your BATNAs.

If you are having trouble learning and assessing your counterpart's BATNA, this may indicate you need to build more trust before probing further.

BATNAs can be used as an advisory or a threat. Threats damage relationships; advisories strengthen them.

Misreading the strength of your counterpart's BATNA can result in impasse after extensive time has already been invested in bargaining.

Ideal time to execute BATNAs: If you have fairly assessed the parties' BATNAs, yours and theirs, you might choose to execute your BATNA before entering the Bargaining stage. You certainly don't want to spend time in bargaining only to get to the conclude stage and have to execute your BATNA.

Misreading the strength of your counterpart's BATNA can result in impasse after extensive time has already been invested in bargaining.

If you have all the power in a negotiation, it is wise not to talk about your BATNA. When parties with power flaunt their BATNA, the less powerful counterpart builds an offensive. (i.e., your competitors all need this product and we have limited capacity; we can get this from any number of suppliers; there are 7 others who want this same location, etc.)

Renegotiations discussions almost always involve a battle of BATNAs.

A BATNA that you aren't willing and able to execute is a Bluff.

Practical tools for negotiation for youth workers

When it goes to work with youth it is very important to develop essential skills for peace building and successful negotiation.

What type of conflict negotiation skills can youth develop?

The following is a list of some commonly identified skills:

- Reflection: The use of reflective thinking or reasoning through which we deepen our understanding of ourselves, and connectivity with others and to the living earth.
- Critical thinking and analysis: The ability to approach issues with an open but critical mind; knowing how to research, question, evaluate and interpret evidence; ability to recognize and challenge prejudices and unwarranted claims as well as to change opinions in the face of evidence and rational arguments.
- Decision-making: The ability to analyze problems, develop alternative solutions, analyze alternative solutions considering advantages and disadvantages, and having arrived at the preferred decision, ability to prepare a plan for implementation of the decision.
- Imagination: Creating and imagining new paradigms and new preferred ways of living and relating.
- Communication: Listening attentively and with empathy, as well as, the ability to express ideas and needs clearly.
- Conflict negotiation: The ability to analyze conflicts in an objective and systematic way, and to suggest a range of non-violent solutions. Conflict resolution skills include appropriate assertiveness and collaborative problem solving. Communication skills are an important foundation in conflict negotiation.
- Group building: Working cooperatively with one another in order to achieve common goals. (Cooperation and group building are facilitated by mutual affirmation and encouragement by the members. The assumption is that everyone has something to contribute, everyone is part of the solution).

Eight factors to consider in advance to be prepared to negotiations:

- Goals. What are you trying to achieve during the negotiation? And what do you think the other person's goals will be?
- Trades. What might you be able to ask for, and what would you be prepared to give away?
- Alternatives. If you really can't achieve your goals, what would be your "best alternative to a negotiated agreement" (BATNA)? Your position will be more secure if you have a number of options, so it's worth putting plenty of effort into addressing this point.

- Relationships. How have negotiations gone with this person in the past? Just as importantly, what kind of relationship do you want with them in the future?
- Expected outcomes. What precedents have been set? Based on those, and on any other evidence you have, what seems to be the most likely outcome of this negotiation?
- Consequences. Is this a big, one-off deal, or one of many smaller negotiations? What do you and the other party stand to gain or lose?
- Power. Who holds the power here? How might this affect the negotiation process?
- Solutions. Taking all of these points into account, what do you now consider to be a fair outcome – one that you can put forward with confidence?

Other tips that can help to have more successful negotiations:

- The background homework: Before any negotiation begins, understand the interests and positions of the other side relative to your own interests and positions. Put these points down and spend time in advance seeing things from the other side.
- During the process: Don't negotiate against yourself. This is especially true if you don't fully know the position of the other side. Much is learned about what the other side really wants during the actual negotiation process. Stay firm on your initial set of positions and explain your rationale but don't give in too early on the points. Wait to better understand which points are more important to the other side.
- The stalemate: There will often come a point in a negotiation where it feels like there is zero room for either side to budge. Two sides are stuck on their positions and may have lost sight of the overall goals of the negotiation. Emotion may have overtaken logic at this point. If you recognize that you've reached this point, see if you can give in to the other side on their issue in exchange for an unrelated point that is relatively more important to you. An example helps clarify: during a friend's recent car purchase he negotiated the price to a level that the dealer did not want to move any more.
- To close or not to close: Whether you drive too hard a bargain, cannot reconcile on key terms, or feel that the deal is just too rich for your blood, make the offer you want and let the other side walk if they don't want it. This is not to say to be offensive or to low ball, but rather to be honest, straightforward on what you are willing to do and explain that you understand if it does not work for them and that it is the best you can do.

Here are ten negotiating techniques to share with youth:

- Make the pie bigger
- Use humour
- Show your strength
- Ask a question
- Review your preparation (privately)
- Breathe deeply
- Name hard-line tactics
- Take a break
- Use silence (after your proposal)
- Reframe an issue.

Dealing with Emotion

During the course of a negotiation process, it is highly likely that you will need to have a process or mechanism that will allow you to vent or release strong emotions. Facing the difficult issues underlying the negotiation, particularly if you are negotiating with parties that you feel have done painful things to you, can raise anger, sadness, stress or many other strong emotions.

Before the negotiation starts, think about how you will deal with emotions during the negotiation. Having a plan in place means that you don't have to think about it – when the pressure valve blows, you simply have to carry out the plan you already have prepared.

If you are negotiating alone – have someone ready to offer you support, like a counsellor, friend, colleague or family member. This should be someone who is not involved in the conflict, and will help you to process the emotion and go back to make a positive contribution to the negotiations.

If you are negotiating in a team – talk about how you will support each other by watching out for team members 'losing it', how you will cover each other's roles if necessary, and what strategies you will use to process emotions – will this be done within the team, or with support from outside people.

III. Benefits of Mediation. When and where can mediation be used?

Mediation is a structured, interactive process where an impartial third party assists disputing parties in resolving conflict through the use of specialized communication and negotiation techniques. All participants in mediation are encouraged to actively participate in the process. Mediation is a "party-centered" process in that it is focused primarily upon the needs, rights, and interests of the parties

Mediation encourages parties who have – or who anticipate having – differences, conflict or a dispute to sit down and talk, with a view to finding a mutually acceptable way forward. It is usually most appropriate when, for a number of reasons, people are unable to negotiate effectively for themselves or have reached some sort of impasse or deadlock. It recognises that direct negotiations can be difficult in many situations. It can also be effective to prevent awkward situations escalating.

A mediator is a skilled independent facilitator who works impartially with all concerned. Discussions take place in a confidential setting, the purpose of which is to help the parties to find a constructive solution that meets their real interests and needs. It enables people to engage in effective negotiations and to seek to understand, narrow and, wherever possible, resolve the differences or dispute between them.

The mediator does not impose a solution - the parties themselves decide the outcome, the terms of any agreement between them and how to take matters forward. Nothing which is said or done is binding on anyone unless and until they agree that it should be, at which point the agreement is usually recorded in writing.

Mediation is sometimes viewed as a “soft” approach. Discussions in mediation ought always to be respectful and dignified. However, they can also be – and often are - rigorous and challenging, as difficult issues are wrestled with and faced up to with the help of the skilled mediator.

How Does Mediation Different From Negotiation?

- Mediation differs from negotiation in the fact that mediation involves a third party negotiating on behalf of both parties to reach a settlement over a dispute versus in negotiation where you have two sides in dispute negotiating on their own.

When can mediation be used?

Mediation is used whenever and wherever negotiation has failed or is in need of assistance.

Mediation can be used at any time, whether or not court or other formal proceedings are in progress. Often, mediation is used in circumstances where litigation is not even in prospect and where no lawyers are involved. Similarly, it is increasingly used in many countries to help parties in a court case to avoid the further cost, time and risk of court proceedings. It can also be used to help people in many settings to finalise contracts, create joint ventures and build better professional, business and personal relationships.

In many countries, mediation is seen primarily as an alternative to court (Alternative Dispute Resolution, or "ADR"). In some jurisdictions this has been very successful. However, this can also place limits on mediation's scope. It can tend to become legalistic and formal. The beauty of mediation, however, is its infinite flexibility and informality as a means to help people in diverse situations to explore the real underlying issues and look creatively at options for the future, without being limited by legal concepts and indeed by notions of rights and entitlement.

("ADR" is a term which should be avoided: it is restrictive and ambiguous. It is sometimes taken to refer to mediation, on other occasions to include arbitration, conciliation and a range of other processes. In any event, this expression creates uncertainty by being suggestive of "alternative to" something of prior importance

rather than referring to one of a range of equally valid means to help resolve disputes in appropriate ways. As an example, in a number of US states, mediation is simply described as one of a variety of means of dispute resolution. People choose how they want to resolve their dispute without a presumption in favour of any one process.)

The most important person in mediation process is mediator and it is very important that the role and duties of this person are clear.

Roles and Duties of Mediator

The principal role of the mediator is to facilitate communication between the parties in conflict with a view to helping them reach a voluntary resolution to their dispute that is timely, fair and cost-effective. Although the mediator manages the meeting and is in charge of the proceedings, he/she should not impose solutions or decisions and has no power to force a settlement. A solution should only be reached by agreement between the parties. They are responsible for the ultimate resolution of the dispute. Furthermore, a mediator has no right or duty to provide legal advice to the parties even if he/she happens to be a lawyer. The parties should seek legal advice solely from their legal counsel. The mediator, however, may raise issues and help parties explore options.

Setting up the first meeting

- Following his/her appointment, the mediator will contact the parties or their counsel to fix a date for the holding of the first meeting.
- Mediation parties may be assisted by an advocate, legal procurator or any individual designated by them whether before or during the mediation proceedings.

First meeting and review of mediation procedures

At the first meeting, the mediator will:

- request the parties to sign, jointly with him, the Centre's Model Mediation Agreement setting out the terms and framework for the conduct of the mediation process;
- give a brief description of his/her role and that of the parties and explain the mediation process with particular reference to the statutory provisions regulating confidentiality;
- discuss with the parties whether they agree to give their consent in writing authorising him/her to hold separate meetings with each of them on an individual basis;
- invite the parties to give a brief account of the facts of the dispute from his/her perspective. This may be done either in joint session or it may be done privately with the mediator provided the parties would have agreed to hold separate meetings;

- ask questions to clarify certain matters for the purpose of assisting the parties overcome any obstacle and explore options for settlement.

Duties of mediator

A mediator has the following duties to observe:

Code of Conduct

Mediator are required by the Act to follow the Centre's Code of Conduct for Mediators in the performance of their duties as mediators.

Impartiality

A mediator shall mediate only those matters in which he/she can remain impartial. Impartiality means freedom from favouritism, bias or prejudice both in conduct and appearance

If at any time the mediator is unable to conduct the process in an impartial manner, or the parties, or any one of them, express doubt on any circumstance concerning the mediator's impartiality the mediator should withdraw and the Mediation Centre would appoint another mediator in his stead.

- Impartiality and Challenge of Mediator

A mediator may be challenged on grounds of impartiality by any mediation party. When a mediator is challenged he/she should withdraw and be substituted by a new mediator. However, if the challenged mediator does not withdraw, the chairman of the Board of Governors of the Centre will decide on the challenge and his decision will be final and binding. If the Chairman sustains the challenge, a substitute mediator will be appointed by the Centre.

- Notification of Challenge

The party who intends to challenge a mediator should send a notice of his/her challenge in writing, stating the reasons for such challenge, to the Registrar, the other party or parties and the mediator challenged within 15 days after the party making the challenge has become, or could have become, aware that circumstances exist that give rise to justifiable doubt as to the mediator's impartiality

- Conflict of Interest

A mediator has the duty and obligation to disclose to the parties any actual or perceived conflict of interest as soon as he/she becomes aware of it whether prior to accepting to act or at any time during the mediation process.

If a mediator has a conflict of interest he/she may only accept or continue the mediation if the parties explicitly consent in writing, provided, however, that if the mediator deems that the conflict of interest gives rise to the slightest reasonable

doubt as to the integrity of the process he/she should decline to proceed regardless of the consent of the parties to the contrary.

Confidentiality

Confidentiality is the cornerstone of the mediation process. The Act stipulates that everything said during the course of mediation, including all communications between the parties and the mediator are confidential and no evidence of anything said or documents produced during the mediation process are admissible in any litigation proceedings. Moreover, the mediator cannot be summoned as a witness on what took place and on what came to his/her knowledge during mediation.

The mediator may, however, disclose to the Court any information obtained during the mediation process provided all the parties to the mediation give their written consent. Furthermore, the disclosure of the content of the agreement reached between the parties is also permitted when required to prevent harm to the physical or psychological integrity of a person or where the disclosure is necessary in order to implement or enforce the agreement reached between the parties.

Benefits of Mediation

Classically, the benefits of mediation are said to be:

Communication: most conflict is the result of inadequate or ineffective communication. “Why didn’t we have this conversation a year ago?” is a phrase we hear more than any other. Mediation enables people to have conversations, to address difficult issues and to work through differences of view in a carefully structured way guided by a skilled third party. Crucially, in many situations (neighbours, business partners, contractors, families, in the work place) this can help to restore, enhance and rebuild relationships.

Confidentiality: the ability to discuss privately the real issues and not to be bound by anything said or done unless and until an agreement is reached.

Control: the parties retain control over the outcome rather than handing it over to lawyers or a judge or other third party adjudicator. Lawyers are often involved in mediation as advisers, advocates and confidantes but one of its defining features is party autonomy.

Closure: for many people, ending a dispute is as important as the outcome. Thus being able to bring a matter to a sensible conclusion without the time, stress, possible publicity, management cost, opportunity cost, reputational risk and loss of morale entailed in long, drawn out conflict is a real advantage. The vast majority of matters dealt with by mediation are resolved quickly and effectively.

Certainty: allied to closure and control is the knowledge of an agreed outcome and avoidance of the risk and uncertainty inherent in handing over dispute resolution to

third parties. Being a consensual process, mediation has a remarkably high success and implementation rate.

Creativity: traditional problem-solving tends, because of its adversarial nature, to be binary. Courts are generally limited to money remedies and, on rare occasions to specific remedies such as interdict. There is, understandably, no scope for constructive approaches to dispute resolution. This promotes a culture where money/compensation/claims are the only way in which needs can be addressed.

However, research and experience tells us that most people want other and different things: for example, the contracted-for work to be completed, a service to be improved, an apology or acknowledgement of error or mistake to be made (regardless of legal liability), a return to work, recognition of pain suffered, reassurance that steps will be taken to prevent a recurrence, an explanation of what happened/went wrong, a renewed personal or business relationship. All of these can be discussed at mediation.

Cost-saving: while there are different formats for mediation (given its flexibility), broadly, mediation takes a day (or perhaps two) to help parties to reach a conclusion. From first inquiry through to agreement, only a few weeks is generally required. Overall, this should be much less expensive than other procedures, especially court or tribunal. From the perspective of individual cases, this enables resolution without (often hugely) disproportionate expenditure; from the overall perspective of public sector spending, this can bring significant savings in the overall justice budget.

IV. Negotiation Vs Mediation

Mediation	Negotiation
• Parties agree to work with a mediator to resolve a dispute	• Parties work with each other to resolve a dispute
• Mediator may meet with both parties jointly or individually with one party	• Parties always meet with each other
• Mediator is neutral, impartial and does not represent either party's interests	• Parties represent their own interests
• It is not the mediator's role to persuade the parties	• Parties use persuasion to get the other side to agree with them

Process

Mediation is a formal process that a Nationally Accredited Mediator by NMAS (National Mediation Accreditation Standards) will follow. Negotiation is a more flexible and informal process. For example, negotiation can bypass some stages of mediation and focus more on the exploration stage.

End result

Mediation has an end, and it is usually completed in just one day. Since negotiation is a flexible and informal process, there is no definite end date.

Parties presence

Mediation requires the presence of all parties whether it is conducted face-to-face, by phone, video call, or shuttle mediation. When using the negotiation process, it's possible that parties may never need to meet. Although its recommended that all parties meet during at least the first session so that the negotiation process moves along more efficiently, it is not necessary.

V. Conclusion

The use of negotiation and mediation as conflict resolution skills for youth in a variety of settings has grown extensively during the past decade. Rather than remain in a largely passive role as adults attempt to solve their problems, youth negotiation and mediation programs can empower young people to be actively involved in resolving conflicts they are faced with.

This module examines the application of mediation techniques in a variety of systems, including: the family; the school; the neighbourhood; and the youth justice system. It is very important to have this knowledge for youth workers that are actively involved in the education of youth. In addition, several critical issues facing the field of youth development on this topic are identified and discussed. These issues include: imbalance of power and negotiating skills; coercive versus voluntary participation; and, net-widening/labelling. But overcoming this issues and giving useful education we are making input in future of our planet, because these skills help in a global process of peacebuilding.

It is important to remember that negotiation should always be the first step in any dispute resolution. It is a quick, cost effective and flexible form of self-help and the vast majority of disputes can be settled by this method. It does not always work however. Communication can be difficult if each party does not hear the other or have a realistic understanding of their true position. Personal antagonism and the weight of past dealings and bad feeling can prevent the clear communication and compromise necessary for settlement.

When negotiation fails mediation can be an effective method of settlement. The assistance provided by a more formal procedure, albeit one the parties are still in majority control of, can help re-establish communication and allow each party to gain a more accurate and complete picture of the whole of the dispute; a necessary pre-requisite for the satisfactory and lasting settlement of any disagreement, whichever method resolution is chosen.