

Smt.B. Jyotsna, L.L.M,  
Junior Civil Judge,  
Amadalavalasa.

## **CONFLICT AND CONCEPT OF MEDIATION**

### **THE NATURE OF CONFLICT :**

It is appropriate to begin the study of mediation with an examination of the nature of conflict and the principles of conflict resolution which underlie the mediation process. We will first attempt to understand conflict, then examine the need to manage conflict through negotiation and finally study mediation as assisted negotiation to resolve conflict effectively. This becomes necessary because how we understand conflict determines the way we will mediate.

Life comprises of several differences between and among people, groups and nations. There are cultural differences, personality differences, differences of opinion, situational differences. Unresolved differences lead to disagreements. Disagreements cause problem. Disagreement unresolved become dispute. Unresolved disputes become conflicts. Unresolved conflicts can lead to violence and even war.

We will study the nature of Conflict in three broad dimensions. (1) The sense of threat which drives it (the Conflict Core). (2) What happens when it escalates (the Conflict Spiral). (3) The three primary aspects of conflict that mediation needs to address (the Conflict Triangle). Understanding these dimensions will help us understand our own approaches to conflict as well as those of the parties we deal with.

### **THE DIMENSIONS OF CONFLICT :**

#### **1) THE CONFLICT CORE**

The Conflict Core diagram shows how at the very core of any conflict, there lies a sense of threat concerning individuals, groups, communities or

nations. This sense of threat emerges when any disagreement, annoyance, competition or inequity threatens any aspect of human dignity, personal reputation, physical safety, psychological needs, professional worth, social status, financial security, community concerns, religious membership or national pride. This list is not exhaustive and only indicates broad areas of threat. By the time parties get to the negotiating or mediation table, they are threatened both by the opposite side and within themselves! There is fear, suspicion, helplessness, frustration, embarrassment, anger, hurt, humiliation, distrust, desperation, vengeance and a host of mixed emotions that need to be addressed. Failure to address these emotions will prevent the parties from resolving their dispute.

## 2) THE CONFLICT SPIRAL

When a given conflict intensifies, the initial tensions start spiraling outwards, affecting individuals, relationships, tasks, decisions, organizations and communities. This outward manifestation of the conflict is called the Conflict Spiral.

**Personal responses.** The stress of conflict provokes strong feelings of anxiety, anger, hostility, depression, and even vengeance in relationships. Every action or in-action of the other side becomes suspect. People become increasingly rigid in how they see the problem and in the solutions they demand. It can be difficult for them to think clearly. Hence what the parties really need is a forum which will understand and address their emotions and not just their dispute. Without emotions being addressed it is difficult to find real solutions.

**Community responses.** Emotions have a vital community and cultural context, even though individual responses may not always be the same for all members of the same culture or community. Any dispute takes colour from its community and cultural context. When the dispute begins to affect those around it, people may take sides or leave. Communities and families get polarized when the dispute involves a family or community member. However, a solution for a family dispute in one part of the country may not

necessarily be perceived to be the solution in another part of the country. Similarly, a solution in the context of a metropolitan urban city may not be the same as for a rural area. A solution for a voluntary organization working with education may not be the solution for an information technology firm.

**Legal advice.** Legal advice often becomes important in a conflict. This may add to the increasing tensions and inability of parties to control the situation themselves. Through process of interaction between the parties, assisted by a neutral person, a possible solution acceptable to all can be evolved.

**Conflict becoming public** Sometimes the conflict becomes public. Each side develops rigid positions and gathers allies for the cause. The conflict may spread beyond the original protagonists' control. It may also attract public and media attention. The relationships of the old and new protagonists become more complicated. Resolving the original conflict therefore becomes more difficult.

### **3) THE CONFLICT TRIANGLE**

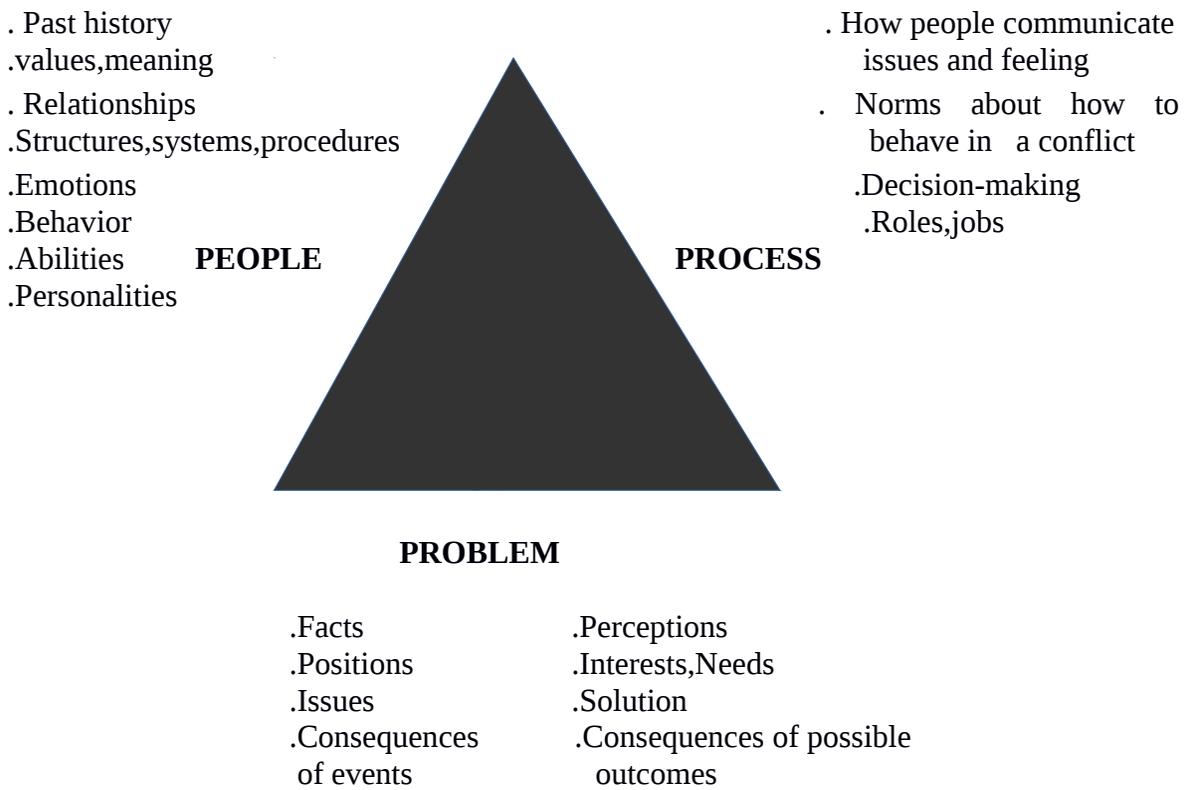
The Conflict Triangle arranges the three primary aspects of Conflict namely: the People, the Process and the Problem into three sides of the triangle. This Conflict Triangle becomes the basic framework to understand and address conflict. Elements of each side of this Conflict Triangle differ from person to person, situation to situation and problem to problem requiring different solutions.

**1. People.** Dealing with any conflict involves dealing with people. People come from different personal, social, cultural and religious backgrounds. They have their own individual personalities, relationships, perceptions, approaches and emotional equipment to deal with varying situations.

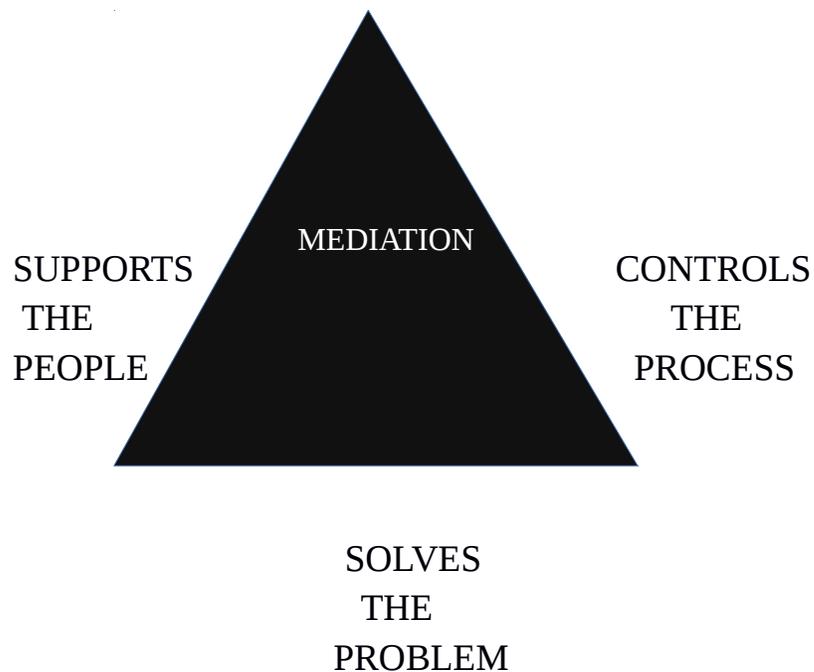
**2. Process.** Every conflict has its own pattern of communication and interaction between and among all the parties. Conflicts differ in the way each one intensifies, spreads and gets defused or resolved.

**3. Problem.** Every conflict has its own content. This comprises of all the issues and interests of different parties involved, positions taken by them and their perceptions of the conflict.

THE CONFLICT TRIANGLE-1



THE CONFLICT TRIANGLE-2



## **GOING BEYOND MERE PROBLEM – SOLVING**

If the parties are able to address each side of the conflict triangle, easing their emotional state, changing their ways of interacting and addressing the problems which threatened their core interests, then the conflict is not merely resolved, but mindsets and hearts change. It is in this sense that mediation at its best goes beyond mere problem-solving or managing a conflict.

## **CAUSES OF CONFLICT AND ADDRESSING THEM**

The first step in resolving conflict is identifying its cause. Once the cause has been identified, the next step is to evolve a strategy to address it. The following are some examples of causes of conflict and strategies to address them.

### **CAUSE:**

### **STRATEGY:**

#### **Information**

- . Lack of information
- Misinformation
- Different interpretations of information

- i) Agree on what data are important
- .ii) Agree on process to collect data
- iii) Agree on considering all interpretations of information

#### **Interests and Expectations**

- Goals, needs
- Perceptions

- i) Shift focus from positions to interests
- ii) Expand options
- iii) Find creative solutions
- iv) Clarify perceptions

#### **Relationships**

- Poor communication
- Repetitive negative behavior

- i) Improve communication
- ii) Clarify misconceptions

- Misconceptions, stereotypes
- Distrust
- History of conflict
- History of conflict

- iii) Improve communication
- iv) Agree on processes and procedures
- v) Keep your word
- vi) Focus on improving the future, not dissecting the past

### **Structural Conflicts**

- Resources
- Power
- Time constraints

- i) Reallocate ownership and control
- ii) Establish fair, mutually acceptable decision-making process
- iii) Clearly define, change roles

### **Values**

- Different criteria for evaluating ideas
- Different ways of life, ideology and religion

- i) Search for super-ordinate goals
- ii) Allow parties to agree and to disagree
- iii) Build common loyalty

### **Conclusion:**

From the above analysis the continuum of tension lead to conflict which are 1.Differences 2.Disagreement 3.problem 4.Dispute 5. Conflict 6.Violence 7.War. Thus, every stage which give rise to conflict can be resolved with mutual agreement through mediation.