



The Importance of Non-verbal Communication in Mediation

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Abstract:

Communication plays a pivotal role in dispute resolution, particularly within the context of mediation. Effective communication is crucial for building essential elements such as trust, cooperation, and emotional tone during the mediation process. The primary objective of this research is to explore the impact of non-verbal communication on mediation outcomes. Adopting a qualitative approach, the study critically reviews existing theoretical and empirical literature concerning the role of non-verbal communication in mediation. The findings emphasize that both verbal and non-verbal communication are fundamental to the effectiveness and stability of the mediation process. Non-verbal cues, including body language, facial expressions, and tone of voice, significantly influence the conveyance of emotions and facilitate understanding between disputing parties. These elements are critical in building rapport and ensuring a productive mediation environment, thereby enhancing the overall success of dispute resolution.

Keywords: Non-verbal Communication; Communication; Mediation; Dispute Resolution

INTRODUCTION

Dispute resolution is increasingly required as modern society develops and becomes more competitive. Contemporary companies are becoming more complex environments, with people from multiple cultures working together. In the family environment, due to the rush to resolve situations and anxiety increasingly being considered a modern disease, friction and tension have become more common.

Mediators, in turn, face a significant challenge in this context because they need to constantly improve their ability to mediate in different scenarios and ways, adopting a stance that aims to reach an amicable agreement between the parties involved or at least a defined resolution.

In this context, communication is essential to utilise the mediators' skills during mediation. According to Mayer (2000), communication processes are fundamental for achieving conflict resolution goals. However, they vary according to the peculiarity of each mediation and the perspectives of the individuals involved. The focus of this research paper is to discuss non-verbal communication and how it influences the mediation process. In an environment of disputes where participants manifest themselves emotionally, the ability to read non-verbal signals enables a greater understanding of the mediation professional (Kenny, 2014).

In this view, it arises from the problem that guides the proposal of this research: How does non-verbal communication influence the mediation process? Thus, the study's objective, however bold as it may

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seem, investigated the light of literature as non-verbal communication influences the mediation process.

It justified the realisation of this study, given the theme to be explored little by academic studies. As a rule, academic studies are more likely to focus on verbal communication characteristics in negotiation/mediation. Therefore, the focus is on the relevance and importance of conducting studies to understand itself more profoundly and with a contemporary vision of how nonverbal language in mediation is established.

LITERATURE REVIEW

To understand what mediation is clearly and objectively, Curran (2015) explains that it is a process mediated by a third party. This third individual, the mediator, impartially and neutrally facilitates the dialogue between two other parties that are in conflict. For the objective to be fulfilled, Moore (2014) explains that the purpose of mediation is to find an agreement that is satisfactory to both parties. The author also emphasises key aspects of mediation, such as confidentiality and collaboration. It is a voluntary process, and all of this should be very well explained in the Ground Rules at the beginning of the session. In other words, the individuals in the mediation have the self-determination to want to participate or leave the place if they do not feel comfortable. Furthermore, it is a more affordable means than other litigation processes.

According to Thompson (2015), each party in mediation needs to have the opportunity to speak, that is, to share their respective points of view and describe them in detail, always respecting the ground rules and the time stipulated by the mediator. In this scenario, the author explains that the mediator, through active listening, identifies dissonance and common points between the parties, allowing the possibility of an effective agreement. Remaining neutral, knowing how to communicate, and listening well are the essential skills that increase the chances of a mediation concluding successfully. Regarding these skills, based on the author's explanations, mediators often display a variety of communication strategies to help parties hear each other's points. Strategies such as summarising and paraphrasing help ensure clarity and avoid misunderstandings (Moore, 2014). To conclude this line of thought, Fisher and Ury (2011) advise that a good mediator knows how to explore silent communication, that is, non-verbal communication, such as active listening and coordinated eye contact. These actions are examples of how to communicate without speaking. All of them help to create trust and build an environment of harmony in the workplace.

As stated by Curran (2015), the mediator is a facilitator because an essential point in the mediation process is how the mediator conducts the dispute. It is his/her role to force the parties to dialogue, encourage discussions to reach an agreement, and always maintain respect between individuals. Curran (2015) also points out that mediators must be good communicators and maintain an impartial stance in their decisions to become good process managers. As a result, fostering dialogue through the mediator's neutrality to achieve cooperation is a distinct advantage that few dispute resolution methods offer. The success of this approach largely depends on effective communication.

Although communication in mediation goes beyond the simple exchange of information between sender and receiver, it involves constructing meanings. In this process, the mediator acts as a facilitator in a voluntary process, ensuring that communication is clear and free from noise or misunderstandings.

Communication in mediation

It is not news to note that "Communication" carries several senses and meanings in its term. As Castells (2007) states, human civilisation is embedded in communication. More than that, the author shows how it is part of human nature to communicate and how this communicative manifestation is a translation of the culture in which people are formed. For this manifestation to be necessary, language, made possible by exchanging messages between Man and the environment in which he lives, makes culture possible. Thought and language are deeply interconnected; the mind and body function as one. Our cognitive processes are shaped by bodily experiences, emotions, and interactions

with the world. Language is not just a tool for communication but also a framework for thought, often reflecting physical and sensory experiences. Rather than existing in isolation, thinking and speaking emerge from the dynamic relationship between body and mind. This leads to the understanding that communication is created through interaction and individuals' influence on each other.

The interplay between cultural norms and personal expression embraces human communication's multifaceted, polysemic and ramified nature, recognising that certain aspects may always remain unsaid or misinterpreted, particularly in mediation, where emotions and perceptions play a central role. This is perhaps reinforced by noise in communication. This is a communicative error that produces meaning. Noise refers to disruptions or misunderstandings in nonverbal communication (Eco, 1999).

This phenomenon arises because the "general" cannot address everything comprehensively. In other words, there is inherent indeterminacy and incompleteness in the meaning-making processes. A mediator in resolving a conflict attempts to navigate and mediate something that remains undefined, as even with highly skilled communication, the conveyed message may not be fully complete or precise. This is due to the inherent incompleteness of signs, which allows for multiple interpretations and meanings (Barthes, 1970).

In conflict resolution processes, this is no different because it is precisely through communication that the parties and mediators will demonstrate their needs. Due to this, to establish a good relationship between the parties, the mediator must know how to ask questions and understand when to listen to what the parties involved say. Listening attentively is recognised as an essential skill in the mediation process because, through the interpretation of signs transmitted by the person expressing, information can be obtained about the positions, arguments and needs of the other party (Portere, 2024). Claudiu (2019) considers that good mediators are good listeners who ask different types of questions, many of which have already been prepared. According to him, open-ended questions like Why, How, Where, and What are examples of making the person relax and feel more comfortable. After that, other strategies to promote dialogue and agreement between the parties are valid. One of these tactics, for instance, could be to mirror the person, that is, emulate the individual's gestural behaviour and the same tone of voice.

Charkoudian (2012) discussed that communication is helpful in conflict resolution environments because it has a multi-task characteristic, mainly how information is exchanged and relationships are built. For the author, the mediator's ability to facilitate mediation using clear and open communication is essential to create an environment where the parties feel heard and respected. Whether verbal or non-verbal, communication can be vital for mediators to achieve the expected results and resolve the conflicts inherent in mediation processes. This is because, as Eco (1999) suggests, the means and forms of communication have repercussions as a great mirror of social life, shaping the ethics and politics of the individual.

It is deduced that mediation allows the parties to be protagonists because it allows them to build a solution together. Within this context, communication becomes indispensable for analysing the interests at stake.

Kenny (2014) highlights another vital aspect of communication in the mediation process: how the parties communicate through linguistic symbols, such as oral language, gestures, body language and even silence. This implies that the meanings behind these symbols can help the conflict mediator decipher the messages being conveyed. As Charkoudian (2012) observes, effective communication is the point of security that connects the parties in conflict, allowing them to overcome obstacles and find mutually beneficial solutions. More than that, the author highlights that, in mediation processes, communication generates an impact so that participants connect ideas and overcome differences.

Thompson (2015) complements the idea by saying that verbal communication is essential for the function of exchanging messages; however, it does not provide a complete explanation of the information coming from the sender, as the verbal channel is just one of the resources used to express messages during the mediation process. In communication, there are several ways of expressing oneself, and here, the author mentions that mediation allows for the exploration of more than one of

these channels. He states that non-verbal signals are necessary for the mediator's skill to be used correctly. In Janečka's (2021) opinion, all forms of communication can be classified as verbal or nonverbal. The author adds that verbal and non-verbal communication can be subdivided into vocal or non-vocal.

As can be seen, effective communication is fundamental to the satisfactory conclusion of disputes in conflict mediation. However, the emphasis on a satisfactory conclusion is not only on verbal communication but also on how nonverbal communication interferes in mediation. In other words, the various forms of communication, using correct words and gestures to convey messages and clarify issues, are essential for understanding perspectives and concluding agreements.

Some important non-verbal characteristics in conflict resolution

Non-verbal cues play an equally vital role (if not more so, depending on the context) than verbal language in conflict mediation. Non-verbal communication, which is characterised by body language, facial expressions, gestures, eye contact and tone of voice, generally conveys the subject's intentions more accurately than words in certain situations. This is shown by data collected by researcher Thompson (2015) in his work on non-verbal communication in conflict resolution. Thompson's studies demonstrated how non-verbal communication can significantly impact the mediation process, reinforcing or contradicting verbal messages. "Nonverbal communication cues and elements can contribute to developing rapport, building trust, and displaying professionalism. Nonverbal communication can also convey the main pillars of mediation: neutrality, impartiality, and self-determination" (Thompson, 2015).

The author also highlights the importance of the handshake, emphasising that this act, performed at the beginning of the mediation during the introductions between the parties, is more than just a polite and friendly gesture. From the participants' perspective, the mediator promotes trust and establishes connections from the beginning of the session. The author's research highlights the crucial role of first impressions and how they influence how others perceive and evaluate individuals. "Shaking hands, a customary greeting in western cultures for business and professional settings, can be an important element in the initial greeting during a mediation session" (Thompson, 2015).

The mediators revealed that through their own nonverbal language, they implied the construction of trust and rapport with the parties. For example, open body language, moderate eye contact, and a steady tone of voice helped, according to the data collected, to create an atmosphere that reduced stress between the parties Madonik (2001). Lastly, Moore's (2014) research reveals that mediators who can effectively manage dialogue with structured verbal communication, mainly through paraphrasing, help reduce participants' emotional escalation, ensuring effectiveness in resolving the conflict.

Furthermore, it is essential to recognise that nonverbal communication essentially refers to any form of communication that does not involve spoken words, that is, nothing more than linguistic signs. The words and the sounds transmitted through sound waves by human mouths form a lexical set, and this phonemic set is called verbal communication.

As the previous thought had established, non-verbal communication encompasses elements such as body posture, physical appearance, active listening and much more. Although non-verbal communication exists in all cultures, its prevalence and meaning vary between societies. The nature and extent of these nonverbal signs often depend on an individual's personality, but they are profoundly shaped by explicit and implicit learning (Ellies, 2021). According to Thompson, Ebner and Giddings (2017), restricting the definition of non-verbal communication to physical behaviour alone undermines its broader scope and true purpose. The authors argue that non-verbal communication includes a diverse range of signals and elements, some linked to the sensory and physical dimensions of the human body, while others extend beyond these aspects. Based on interviews with mediation participants, they identify five dimensions of non-verbal communication that significantly influence the trajectory of mediation and negotiation. They are Movement (Gesture), Environment (Location), Touch (handshaking), Tone (regarding the volume or pauses), and Appearance (Clothing). Together, they form what the authors abbreviated as METTA.

Ellies (2021) states that non-verbal cues during a mediation session are vital because they make the parties involved perceive the extent to which the mediator is engaged in the knowledge of the dispute and the level of control of the process. The author's research reveals that this usually occurs when the mediator establishes eye contact and gestures (in a way that is not exaggerated). These are signals that encourage the parties to be more open and, thus, to participate in the mediation because they perceive that the mediator is there to help them. "When a mediator is closed off and does not appear to be in the moment with the parties, because of lack of eye contact or closed off body posture, they may reflect the mediator's actions and therefore become closed off themselves" (Ellies, 2021).

According to Coelho (2021), there are varying interpretations of body language across cultures, as gestures and eye contact can vary widely across regions. For example, while some societies view direct eye contact as a sign of trustworthiness and sincerity, others may interpret it as confrontational or disrespectful. Similarly, Sieriakova (2016) emphasises that cultural differences play an important role in shaping the meaning of nonverbal gestures, as they are prone to misinterpretation and can lead to significant communication barriers. For example, depending on the context, eye contact can be perceived as aggressive or affectionate. In situations such as conflict resolution, a poorly judged gesture can offend the other party and derail the discussion.

Nonverbal communication is desperately culturally marked. For example, in the United States, direct eye contact signals openness and honesty. However, in various countries of Latin America and among Native Americans, direct eye contact between a teacher and a student would be considered aggressive the appropriate student's behaviour would be to avoid eye contact with the teacher. From this simple example, it is clear how miscommunication can easily take place in multicultural discursive practices (Sieriakova, 2016).

Different peoples and nations represent verbal or non-verbal signs differently. These differences can generate contrast and divergences in a multicultural mediation, causing the mediator to have a lot of trouble managing it. Therefore, as Kaufman (2021) asserts, mediators must acknowledge that misunderstandings of signals are an inherent reality due to cultural differences. The conduct after this misinterpretation will lead to success or failure.

Furthermore, as Mayer (2004) states, effective mediation requires practising active listening exhaustively. He describes several techniques that help mediators achieve this, such as focusing on the content of the message to understand precisely what the speaker is communicating, recognising the emotions the speaker is experiencing, and paraphrasing to rephrase the message in different words to achieve greater clarity. Similarly, Thompson's (2015) interview data highlight that participants view an attentive mediator as someone who listens attentively, maintains eye contact, and consistently demonstrates respect and empathy. The study also found that mediators who combine active listening with eye contact tend to achieve higher success rates in resolving conflicts.

Communication is not limited to spoken words; a significant portion of human interaction occurs through nonverbal channels, such as nodding or crossing arms. These gestures often provide deeper insights into a person's genuine feelings and thoughts, sometimes even more so than verbal expressions. In mediation, where emotions usually run high, accurately interpreting these nonverbal cues is crucial for fostering empathy, building rapport, and resolving conflicts. By carefully observing and responding to these subtle signals, mediators can create an atmosphere that encourages open dialogue and mutual understanding. Studying this "silent language" is invaluable, as the tone of voice, facial expressions, or gestures can sometimes convey meaning more effectively than words alone (Sieriakova, 2016).

Thus, it can be understood that the communication channels at the non-verbal level can be understood as follows: the first refers to the body and the gestural movement of the human being. The second is related to the product of human actions. For example, the first presents different expressive units such as the face, the look, the smell, the gestures, the actions and the posture. The second also presents several units of expression, such as fashion, everyday objects, artistic influences, and physical appearance. In general, how social culture influences the subject's conduct (Sarbo and Farkas, 2013). Both oral and visual elements contribute to a discourse rooted in verbal communication. During interactions, participants incorporate nonverbal aspects such as gestures, facial expressions, posture,

and more to facilitate the exchange of messages. It is crucial to recognise that nonverbal elements are integral to the communication process, as they are performed by individuals who use a linguistic code to assign meaning to their movements.

Therefore, active listening is one of the most essential skills since it allows the mediator to capture both the words spoken and the feelings and emotions that permeate the communication. By demonstrating genuine attention, the mediator validates the parties' experiences and creates an environment of trust. Active listening also involves the ability to clarify and synthesise the participants' statements to ensure that understanding is mutual.

To sum up, the interplay between verbal and non-verbal communication forms the basis of human language. Verbal communication alone cannot fully replace non-verbal communication, and the reverse is also true. If verbal communication were unique enough to meet all communicative needs, other forms of communication would not have developed mainly to accommodate individuals who, despite not being verbally proficient, can communicate effectively through alternative means. As Chandler (2002) explained, these linguistic phenomena are nothing more than categories of perception that reflect human orientation and cognitive processes.

METHODOLOGY

This study is based on a literature review on nonverbal communication in mediation, focusing on experimental studies in conflict resolution contexts. Articles, scientific research, academic publications, and books on the topic of this proposal were analysed. Therefore, the proposed objective is considered a study with a qualitative approach, descriptive and bibliographic nature, and interpretative line of research.

The interpretivism philosophy is aligned with the inductive approach adopted in this research, which seeks to develop analyses based on what occurs in mediation. Göran (2012) argues emphatically that interpretivism allows the researcher to investigate subjective meanings and interactions (in this case, how communication processes occur during mediation). Thus, by adopting an interpretivism perspective, the research recognises that communication in mediation is a complex process influenced by individual experiences and interactions. This approach allows a deeper understanding of how mediators use verbal and nonverbal communication to promote dialogue, manage emotions, and guide parties toward an agreement. Ultimately, “the central idea of interpretivism is to work with the subjective meanings already present in the social world; to recognise their existence, reconstruct them, understand them, avoid distorting them, and use them as foundations for theorising” (Göran, 2012). For the author, interpretivism research focuses on knowledge as an essential form of understanding that makes the thesis, dissertation, article, or topic accessible and relevant to the public.

Braa and Vidgen (1999) complement this line of reasoning by stating that bibliographic research aims to explain and discuss a theme, subject or problem based on published references, such as books, periodicals, magazines, encyclopedias, dictionaries, newspapers, websites, videos, and conference proceedings, among others. They emphasise that this type of research represents an excellent tool for scientific studies, whether carried out independently or integrated into a broader academic work. In this sense, the survey of related studies, research and scientific articles was conducted using bibliographic databases throughout this work.

The research follows an inductive reasoning process, collecting detailed data to generate debate on how communication, especially non-verbal communication, affects mediation results. It is interesting to note that the induction approach is a “science” of premises; although it does not entail the truth of the conclusion, it represents a good reason for concluding. It is also worth remembering again the gap in the literature on non-verbal communication in conflict resolution, specifically in mediation. Therefore, the secondary data found are of fundamental importance for this study.

To conclude this section, the quotations, references, and sources used in this academic paper are maintained to acknowledge the contributions of the original authors and ensure academic integrity, avoiding plagiarism (Johnston, 2014). Furthermore, the research respects the confidentiality and

privacy of individuals involved in case studies or data from secondary sources, strictly following the conditions presented by the original authors.

DISCUSSION

Nonverbal communication is so essential that, even between countries with different languages and between people with different cultures, the message is understood through nonverbal expression: a smile and a cry are universal. In this way, even in a globalised world, nonverbal physical expressions are reinforced by verbal expression, and communication noise decreases immensely.

So, it can be inferred that body language is socially architected from the individual's iterations. In other words, it can be understood that body language is simultaneously the means and the message that carries meanings. The body and its signals convey what the human being is and what he wants through the elaboration and resignification that takes place in the cultural field. Because culture applies rules and practices of conduct in society, thus organising the social body.

From this point of view, regardless of civilisation, meanings are created that act through the body. Therefore, one can discuss the possibility of unique nonverbal communication in each social group with its distinctive body dialect. However, this form of nonverbal expression may or may not be conscious, as there are different ways of communicating because the mind and body work together.

Therefore, mediators must seek to understand and deepen their knowledge about the parties they will mediate with. Paying attention to culture-specific nonverbal cues can prevent misunderstandings. After all, this nonverbal communication often reveals who we are, what we want, and what we think.

To sum up, non-verbal communication is a powerful tool to understand the dispute's context better and make effective mediation easier, especially in mediations of different cultural backgrounds. Conducting thorough pre-mediation research on each disputed subject is crucial for ensuring the success of the mediation process. This preparation can build bridges of understanding and empathy, but it requires sensitivity and adaptability from the mediator. Ignoring cultural differences can result in worsening the conflict. In addition, communication and non-verbal communication are indispensable because they act as channels through which understanding, empathy and resolutions are achieved. Human experience does not exist without language. However, overcoming cultural biases requires a comprehensive approach that includes mediator preparation, emotional intelligence, and awareness in the mediation process.

Some Practical tips for mediators: First, as explained previously, the mediator needs to understand the background of the participants. Thus, as Kaufman (2021) explains, understanding the non-verbal communication manifestations of other cultures is a valuable tool for the mediator to improve interaction with the participants. The author says that the parties in dispute, when they notice the mediator's respect for their culture, are more likely to develop trust in the mediator. To this end, mediators should adopt a courteous, modest, and respectful approach with all participants in the process.

Eye contact is another point discussed above that can be included in mediators' practices. This contact should be subtle, not too intense or long-lasting, but convey attention and respect. Avoid staring, as this can be perceived as intimidating and even offensive.

Based on Madonik's (2001) studies, a mediator who takes an open stance has a better chance of achieving reconciliation between the parties. For this reason, uncrossed arms and legs are signs that a person is open to dialogue as if they were "disarmed" or if the person said, "welcome."

As discussed previously, Thompson's (2015) data reveal that handshakes at the beginning and end of mediation also show respect for the disputing parties. Based on the ideas of Patterson, Fridlund, and Crivelli (2023), managing space is also fundamental. Paying attention to everyone's spatial control, respecting their limits, and making them physically comfortable in a pleasant place increases the chances of a successful mediation. Mediators who neglect these aspects risk the entire mediation

process, as errors in spatial dynamics or misinterpretations of body language can lead to discomfort, distrust, and conflict.

By integrating some of these sample tips into practice, mediators can significantly improve their ability to understand complex interpersonal dynamics and achieve successful outcomes in mediation sessions.

CONCLUSION

As evidence, the objective of all mediation is to achieve a mutually beneficial agreement for both parties involved. Thus, communication is fundamental during the mediation process, allowing the individuals responsible for such procedures to improve their skills and competencies.

To be effective mediators, professionals must master verbal and nonverbal communication to achieve their goals. During this process, all signs sent and received affect the outcome of the mediation. To succeed in this area, professionals must express themselves clearly to capture the parties' attention, know when to ask questions and when to listen, and understand gestures.

Authors such as Calcan (2019) state that the conflict mediator needs to give more importance to non-verbal language because understanding it means reducing the tension of the dispute. Thus, the communicative situation encountered and already established is defined by the participants (speaker and interlocutor), by the enunciation's dimensions of time and space. In other words, by the situational context and habits that reinforce a culture. From this point on, in conflict resolution, especially in the traditional context of mediation, communication goes beyond the simple exchange of words, becoming a dynamic interaction of symbols, signs and icons. It is about understanding the other at the heart of the process.

Mediation is a collaborative effort (by the practitioner and the parties in dispute) that aims to promote mutual understanding of agendas and the individuals involved. Mediators must maintain neutrality in their communication and, after establishing ground rules, facilitate diplomacy between participants to guide them toward resolution (Smith and Smock, 2008). However, as this research highlights, much must be explored to understand the intricate communication dynamics within the mediation process fully.

To conclude, verbal and non-verbal communication is essential for mediators to achieve their goals and address conflicts during mediation. As such, it can be considered the foundation of mediation. While other factors are crucial to the progress of the process, communication provides structure and stability to the elements of mediation. These are applied and interwoven into a dynamic framework that facilitates human interaction. Without communication, mediation would not exist.

Conflict of Interest

All the authors declare that there are no conflicts of interest.

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