

Mediating Around the World

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Real stories

The Office of the Ombudsman is delighted to present How to Pursue Mediation: Real Stories. In the “Introduction to Mediation Services” video, we cover mediation from all perspectives so that you can get a real sense of what it involves. We will explain the steps involved to start a mediation process, effectively prepare for it, and successfully complete it.

You will learn about the mediation experience by hearing the stories of five actual UN colleagues from different parts of the world who have been in mediation. These colleagues have agreed to anonymously share their stories for your benefit so that you can assess whether mediation might be helpful to you and your workplace.

If you are a contract holder at UNICEF, UNDP, UNOPS, UNFPA or UN Women, and you are considering addressing a workplace conflict, please watch these videos, and if you have any questions, please feel free to reach out to us at mediation@fpombudsman.org.



Introduction to Mediation Services



CASE 1 Interpersonal & performance



CASE 2 Reorganization



CASE 3 Harassment & performance



CASE 4 Consultancy



CASE 5 Organization's perspective on mediation

What is the role of the UNICEF Ethics Office?



El Cid (Cid) Butuyan
Director of the Ethics Office, UNICEF

Established in 2007, the UNICEF Ethics Office functions on the principles of independence, impartiality, and confidentiality. It serves as a “safe space” for personnel to seek confidential guidance, report concerns, and speak up regarding ethical issues.

The Ethics Office:

- Provides guidance and policy support to management on ethics standard-setting by reviewing and advising on policies, procedures, and guidelines to promote the highest standards of ethics and integrity within the Organization;
- Raises staff awareness regarding UNICEF values and the expected standards of conduct, through training and outreach activities;
- Provides confidential advice and guidance to staff and management, at their request, on ethical issues;
- Is responsible for receiving and assessing cases of Protection against Retaliation; and
- AdministerstheConflictofInterestandFinancialDisclosureProgramme.

The years 2020-2021 were an exciting time of transformation for the Ethics Office. It was redesigned as a separate, independent organizational unit, and the first Ethics Director of the Office was appointed. More recently, and in close coordination with affiliated offices, the Ethics Office has strategically shifted its approach toward prevention and proactive resolution. The work of the Ethics Office is particularly focused on advising and addressing inappropriate behavior and potential ethical failures before they rise to a level of misconduct.

When should you consider reaching out to the Ethics Office?

The Ethics Office offers support in a variety of situations including the following:

- You need confidential guidance on professional ethical standards of conduct concerning workplace behavior, employment-related ethical concerns, conflicts of interest, outside activities, gifts, awards and hospitality, post-employment restrictions, and financial disclosure.
- You have ethical concerns about a situation you face at work and seek confidential advice.
- You need guidance and support on Protection against Retaliation or wish to file a formal complaint on this basis.

How can staff benefit from ethical guidance and support?

The Ethics Office assists colleagues at all levels to identify, mitigate, and manage ethical risks and to make ethical decisions that serve the best interests of the Organization. Staff can reach out to the Ethics Office for general ethical guidance and for impartial and confidential advice on how to manage workplace situations that raise ethical issues. A discussion with the Ethics Office may give colleagues greater clarity about how to behave in the workplace and whether observed behaviors comply with the Organization's ethical standards.

How does the Ethics Office collaborate with the Mediation Unit of the Ombudsman's office?

The Ethics Office and the Ombudsman's office are separate and maintained distinct confidentiality protocols and mandates, but they collaborate with the consent of affected personnel. The Ethics Office will, for example, refer colleagues to mediation services if parties in conflict agree that they may benefit from mediated dialogue. To that end, the Ethics Office has recently instituted a robust Referral protocol to the Office of the Ombudsman for appropriate cases. Similarly, the Office of the Ombudsman will direct colleagues to the Ethics Office for ethical guidance and retaliation protection in appropriate cases.

For more information about the ethics office, UNICEF colleagues can visit the intranet page: <https://unicef.sharepoint.com/sites/OED-EthicsOffc> and/or reach out directly to ethics@unicef.org

Mediation of employment disputes in UNFPA: Role of the UNFPA Legal Unit



Andreas Ruckriegel
General Counsel, UNFPA

A range of employment disputes arising in an international organization may be appropriate for disposition by alternative means of dispute resolution (“Alternative Dispute Resolution” or “ADR”) outside the formal system of administration of justice. Accordingly, for a number of years, the United Nations Population Fund (“UNFPA”) has embraced Alternative Dispute Resolution as a key pillar of the Fund’s staff management and dispute resolution strategy.

Alternative Dispute Resolution can take various forms, including negotiation, conciliation, and mediation. Most commonly, UNFPA’s ADR interventions occur in the form of negotiation between UNFPA and a staff member. Both parties may be assisted by counsel and, quite frequently, negotiations occur directly between the staff member’s counsel and UNFPA’s Legal Unit. Any resolution or settlement achieved will usually be memorialized in a written agreement between the staff member and UNFPA’s management.

To enhance the important role of mediation as another arrow in the ADR quiver, on 1 April 2021 the UNFPA Deputy Executive Director (Management) signed the mediation pledge of the Office of the Ombudsman for United Nations Funds and Programmes. The signature was delivered in the spirit that mediation empowers staff and managers to find mutually beneficial solutions to workplace disputes. Mediated solutions, as the product of party agreement, are likely to last longer than solutions imposed on parties given that the parties assume ownership of the resolution strategy and remain responsible for making the resolution last.

The mediation pledge provides that if a staff member requests mediation, the Organization is prepared to participate in an initial discussion on the suitability of mediation hosted by the Mediation Unit of the Funds and

Programmes Ombudsman. The Organization also has the right to request a meeting with a mediator. In all cases, the parties should participate in this initial, exploratory process in good faith. A link to UNFPA’s mediation pledge is posted on [MyUNFPA](#).

Mediation is subject to a number of professional and legal principles, which include: confidentiality of the mediation process; voluntariness of the parties’ participation in mediation; ownership by the parties of the mediation process and outcome; and impartiality of the mediator. Another important principle underlying mediation from UNFPA’s perspective is the economy of process. As recalled in the mediation pledge, research has shown that mediation and other forms of ADR carry substantially lower costs (financial and otherwise) than adjudication of disputes in the formal system of administration of justice.

In UNFPA, mediations are typically conducted by the Director, Division for Human Resources, or her designee. She will be assisted by the UNFPA Legal Unit as appropriate. However, UNFPA Representatives, Heads of Office, and other UNFPA managers away from Headquarters should also feel empowered to participate in mediation, provided the subject matter and any action necessary to implement a mediation outcome fall within the scope of their delegated authority and responsibility.

The UNFPA Legal Unit is available to advise and assist managers in any mediation. Staff members may seek assistance from the Office of Staff Legal Assistance (“OSLA”), which also services UNFPA staff. Finally, the Legal Unit stands ready to assist, as appropriate, in the preparation of a draft settlement agreement arising from the mediation process for review and signature by the parties to the mediation.

The Use of Mediation in Managing Group Conflicts in the Workplace



Louis Ogbeifun and Superior Oranje
Mediators of the Global Mediation Panel

The workplace of today is full of challenging labor-management issues arising from employment contracts. Points of friction may be aggravated by outside factors including socio-economic shocks, recessions, inflation, and other challenges made worse by COVID-19. In this context, management may strive to sustain productivity and remain competitive, which may require cost-curtailling measures. These challenges, taken together, may make workplaces petri dishes or nurture conflicts that affect working groups. The failure to resolve disputes promptly can cause disruptions to operations and lead to a decline in productivity.

Managers who act as gatekeepers in apprehending and managing conflicts in the workplace may benefit from using mediation to address conflicts that affect groups. A “group conflict” can be a disagreement among persons having interdependent relationships within a class of persons (“intragroup”) or between one or two different categories of people (“inter-group”). “Group mediation” uses facilitative discussions led by a mediator to help resolve group conflicts.

Group mediation is more likely to be successful when the following guidelines are followed:

1. Mediators should spend sufficient time preparing.
2. To ensure inclusivity, mediators should identify all parties involved and/or affected by a conflict. Interviews may be used to ensure that relevant parties are known and are given the opportunity to participate.
3. Interviews with individuals involved in the conflict may clarify issues and diverging points of view. The interview format may also help to reveal interests that may otherwise be clouded by group dynamics.
4. Once the issues and interests have been clarified, informal discussions may be arranged between management and the team. These discussions may help to prevent escalation of the conflict.

5. A group mediation will often end with a presentation of findings during a “town hall” meeting with the affected parties. This meeting may serve the purpose of diffusing volatility and moving the group towards a more harmonious relationship.

Successfully resolving any group conflict requires a mediator who can manage different personalities and who is proficient in using conflict-analysis tools to identify group needs and interests. Group conflicts may be particularly complex where they raise issues of group perceptions, shared history, culture, and diversity. Managing a group conflict requires patience, and the process is likely to take more time than is needed for disputes between two parties.

The potential of group mediation can be illustrated with an example of an actual mediation. A conflict arose between junior staff, senior staff, and unions concerning promotions and divestment payoffs. The staff associations representing the junior and senior staff had the same complaints, but their members had different motivations and anticipated pathways to resolution. Series of meetings were arranged with different participants among the staff association representatives, workers, and management. Private meetings were also held with outside leaders. Bringing different actors together as the process unfolded helped to clarify the issues and reveal interests that would not have been known otherwise.

When a disagreement arises within a group, mediation may serve to diffuse conflict, preserve relationships, and avoid the need for formal dispute resolution processes. The guidelines set forth above provide a framework for an effective group mediation process.

Causes of Workplace Conflicts



Ruslan Mirzayev

Mediators of the Global Mediation Panel

Although every dispute is unique, there are similarities and commonalities in the causes of disputes. Realizing that a workplace dispute and its root causes have already been experienced and studied in different contexts may encourage the parties to view their situation from a broader and more constructive perspective. Understanding the real causes of workplace conflicts is also helpful in managing them more effectively.

The causes of workplace disputes may broadly be classified into two categories: personal and professional.

Personal issues may serve as a cause or a trigger for employment disputes as with other types of disputes. Differences in values (including cultural differences), communication styles, data (including a lack of information, misinformation, and different perceptions), relationships (including previous negative experiences and stereotypes), and perceived competitive interests may lead to disputes.

On the other hand, systemic issues may lead to workplace disputes too. These causes of conflict may exist in connection with the management and structure of the workplace rather than individual relationships. For example, some of the systemic causes of conflicts are listed below:

- Lack of transparency and communication: The lack of clarity and transparency about the organization's goals, decision-making, and tasks may create conflicts. In addition, when a workplace lacks a culture of feedback and open communication, misunderstandings and wrong assumptions may lead to conflicts.
- Issues with recruitment and promotion policies: The lack of a tailored training program as well as promotion policies that are not clearly defined or that are applied inconsistently may lead to mistrust and animosity among employees.

- Lack of well-defined allocation of functions: When roles are not clearly defined, employees may duplicate work or avoid duties believing that they are not responsible. The absence of clear instructions may also trigger misunderstandings between managers and their subordinates.
- Different goals and lack of a shared vision: In certain organizations, there are competing goals in different branches of the organization. While one branch may be expected to increase sales, another branch may be designated to identify and limit risks. Without instructions and a clear strategy, the different branches may act in an incompatible manner.
- Negative workplace culture: Where a culture of collaboration is not encouraged, team members may act at cross purposes. Employees may be overly competitive, they may fail to give credit where credit is due, and they may mistreat each other when they think it is in their professional interest. These types of behaviors create a toxic workplace and foster conditions for sexual harassment and other negative consequences.

Mediation is an efficient tool for identifying the causes of workplace conflicts. A dispute that seems purely personal may actually arise from systemic causes without the parties realizing it. Mediation may empower the parties to understand the causes of their conflicts and thus separate the conflicts from the personalities of the parties. More broadly, a focus on systemic causes may help organizations to better manage and prevent future conflicts.

Mediation For Disputes Relating to Workplace Discrimination: The Indian Context



Rukmani Menon

Mediator of the Global Mediation Panel

There is an established and growing legislative and regulatory framework in India for reference of disputes to mediation. This includes Section 89 of the Code of Civil Procedure (CPC), the Companies Act, the Consumer Disputes Act, and the Commercial Courts Act. Further, the Mediation Bill, 2021, currently placed before the Parliament, will enhance the use of mediation in India. With regard to workplace disputes, the following statutes provide for conciliatory processes without specifically referring to mediation:

- *The Industrial Disputes Act, 1947*, refers cases to court-annexed mediation centers. However, the definition of worker specifically excludes any person who is employed in a managerial, administrative, or supervisory capacity.
- The Prevention of Sexual Harassment on Women at Workplace Act, 2013, contemplates prevention, prohibition, and redressal of sexual harassment at the workplace. The Act provides a mechanism for a complainant to escalate a matter to the Internal Complaint Committee (ICC) and for conciliation by the ICC. Considering that the majority of the members of the ICC are Senior Officials of the very same company, the Complainant and the Accused may not view them as being completely neutral in conducting conciliation proceedings. Therefore, parties ought to have the option to try mediation before attempting conciliation by ICC.

Similarly, the Handbook on Sexual Harassment of Women at Workplace published by the Ministry of Women and Child Development contemplates informal and formal processes for resolving sexual harassment disputes. The informal mechanism contemplates appointing a neutral person to act as a conciliator between the parties before a written complaint is filed. Mediation is commonly recommended before a complaint is filed before the ICC, but there remains a need for greater awareness about this option.

In the author's experience, workplace disputes often include inter-personal conflicts among employees; disputes over employment terms and conditions including job roles, salaries and promotions; allegations of sexual harassment; and wrongful termination. Disputes tend to be dealt with by human resources departments. For claimed breaches of employment agreements, the employer and employee naturally have the right to submit their disputes to the courts.

Given the important role that human resources departments play in dispute resolution, robust awareness and training programs are needed to equip the departments with the skills needed to deescalate conflict and identify suitable cases for mediation. Employment contracts might also expressly provide for mediation as an option. The presence of a mediation clause in contracts might encourage referral to mediation and even promote productive and peaceful working environments.

There is potential for greater use of mediation in India. If proposals in this article are realized, it is easy to imagine the day when mediation will be the first option adopted for resolving all types of workplace disputes in India.

Mediation Champion



Shai Naides

Chief, Strategic Engagement,
Office of Global Insight and
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How does mediation help in your work?

Mediation has served my team in difficult circumstances, such as restructuring, merger, and the like. Those organizational changes often create hard budgetary decisions that impact the lives and careers of colleagues. In those cases, it would be important to engage a neutral third party to help facilitate the process from the onset, and the Mediation team of the Office of the Ombudsman can play a pivotal role in helping teams work through their different priorities and perspectives, as they did in our case.

When would you consider referring a potential conflict to the Office of the Ombudsman for mediation?

The mediation team can help create space to have challenging conversations in a way that feels safe given the confidentiality of the process. I'd recommend always considering them, especially if parties find themselves avoiding the conflict. Engaging conflict professionals can help unlock the situation, by transforming the conflict or even preventing it from happening in the first place.

How can staff benefit from mediation services?

I think the best way to find out whether mediation can help you, is to contact the team and have an initial conversation with them. From our experience working with them, I'd say one of the best qualities of this team is that they'll help balance all the voices and perspectives in the room, irrespectively of their function or seniority. I'd also highlight their high levels of dedication and commitment to bringing things to resolution.

Do you have any advice for colleagues about mediation?

Mediation is a very useful tool to prevent escalation of the conflict, and you don't need to be in a situation of hopeless conflict to benefit from it. There's often a misconception that their involvement might mean that an issue is out of control - in reality, mediation can help individuals and teams constructively transform conflict, supporting team culture and improving psychological safety.

We would greatly appreciate your feedback to our mediation services.

PROVIDE FEEDBACK

**OFFICE OF THE OMBUDSMAN
FOR UNITED NATIONS
FUNDS AND PROGRAMMES**

If you'd like to reach out to the Mediation Unit, you can contact us at:

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