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DISSERTATION MADR

Assignment Title:

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Due Date:

21/05/2021

Date of Submission:

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Requested Word Length:

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May 2021



MA in Dispute Resolution

The Body Language In Alternative Dispute Resolution

**an examination of body language in the communication cycle, could help
in a mediation process?**

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Acknowledgements

Foremost, I would like to express my sincere thanks to all my teachers for sharing their immense knowledge and especially to my teacher and supervisor, Sharon Morrissey, for all the support and guidance during the process of my dissertation, for her professionalism and experience in the area of mediation, for her advice and her quality as a person, motivation and enthusiasm.

Secondly, deep gratitude to my mother, family and friends whose unconditional support helped me not to give up in an uncertain time (Covid -19) in which living and studying in a different way was a challenge for me being far away from my country; thanks also to those who have gone but who always have a special place in my heart.

Finally, to the people who directly or indirectly made it possible for me to obtain different opinions and interviews to achieve this objective, I extend my gratitude. I hope that the contribution they have had in this project will contribute to mediation and Alternative Dispute Resolution.

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Abstract

This research aims to find how the mediators can analyse non-verbal language (gestures, eye contact, posture, hand movements) during the mediation process; One of the challenges is to obtain the information that can allow the implementation of communication strategies that can help the mediator to develop skills can be used as practical tools to read the body language in mediation processes.

The objectives of this research are:

- To Identify through reading and analysing the body language of the Mediator and the Parties how to develop a better environment by exploring the non-verbal language produced in the Mediation framework.
- To demonstrate information (data) to assess the effectiveness and efficiency of the mediation process by analysing body language in order to achieve a relationship of trust between the mediator and the parties involved.
- To recommend different forms of communication used by the practitioners to improve their relationship with the parties and develop an atmosphere of trust during their processes.

This project will identify effective methods to analyse the communicative and persuasive strategies during the mediation process; This research will focus on the tools the mediator has at their disposal to reduce tensions between the parties and encourage empathy and reflection within the mediation process it means I seek how to help the mediator and the parties to communicate during the sessions because the mediators use the communication skills in conflict resolution to reach agreements with impartiality.

The mediator's ability to listen, identify and analyse non-verbal language, including gestures, will be an instrument to formulate questions to transform the problem into an opportunity for improvement; this can happen in different contexts and contribute significantly to the possibility of resolving a conflict.

A conflict produced between two or more parties, and analyzed from different positions, is understood as a social process that goes beyond the person and their interests; this suggests that in the way we interact, some elements of communication transmit to the other party in the conflict feelings, affections, considerations that allow transparency and the intention of forming an environment of trust and collaboration.

In mediation and conflict resolution, one should observe the set of communicative elements or components such as non-verbal language, tones of voice, posture, and different personalities by watching and listening to understand the conflict situation; the parties should observe the mediator's opportunities during the conflict process.

Alternative Dispute Resolution is an “assisted negotiation process” in which the professional involved must attend, analyze and promote efficient communication. Communication acquires a relevance to be highlighted, positioning itself as one of the main tools of the mediator. The communicative difficulties that foreseeably appear at the beginning can be modulated and directed in favour of the benefit of the whole if a space for dialogue and adequate understanding is fostered.

Introduction

The aim objective of this investigation is to find methods for a deep analysis of the body and non-verbal language that occurs within the framework of mediation, so then under this analysis, we will be able to obtain information that helps to assess the effectiveness of the process to be able to identify the different styles in the way of mediating so you can lead and perfect techniques, the observation of body language and the behaviour of the parties will help to take an approach with which you can analyze communicative and persuasive strategies during the process.

The Alternative Dispute Resolution Means –

Conciliation,

Mediation,

Arbitration

Negotiation

The elements of Alternative Dispute Resolution significantly help society to resolve differences between individuals. These processes are distinguished by being exceptionally reliable, fair, low-cost and low-cost processes where the voluntariness of the parties is vital to reach agreements.

The main challenge of Alternative Dispute Resolution is to create independent processes that are of good quality for parties to resolve issues; since **2008**, Alternative Dispute Resolution has gained acceptance and popularity in the European Union depending on the type of dispute. We must consider some elements to support the parties to find the best solution; Both parties need to voluntarily commit to Alternative Dispute Resolution outside of judicial mechanisms, which can be expensive. In addition, there are now organisations and programmes that help people, through the structured mediation process and the support of a mediator, to communicate and commit themselves during the negotiation stage to a satisfactory outcome. (Wikipedia Contributors, 2019a)

Mediation is the process for people to resolve conflicts, and through the review of the literature, I will explore the essential points about non-verbal communication. These objectives should be a challenge for the mediator and an essential role in his work as a professional to develop confidence in the process should show assertive communication, as I am going to mention by the researcher (Mehrabian 1972) in his long history the communication cycle is paramount and more so non-verbal communication which has some gaps when mediating. (mehrabian's communication research Professor Albert Mehrabian's communications model, n.d.)

In alternative resolution processes, an essential phase is the communication skills between the parties; some of the signals are transmitted verbally but may be low indicators to deepen the communication. However, the majority of information will come from non-verbal language

Some studies suggest that more than 80% of the language communication between two people is non-verbal language communication indicates that the person receiving the information identifies verbal language such as body language or tone of voice and facial expressions as part of the behaviour of Human, regardless of gender, age, culture or idiom the brain receives the information through different emitters so the mediator must pay special attention of this behaviour to have the ability to communicate with both parties in so far as possible while asking appropriate questions.

Authors such as Joe Navarro, Paul Ekman, and Albert Mehrabian have argued the importance of non-verbal communication and establishing and developing it to create an effective relationship of trust. In this study, I will examine how it can contribute to the communication cycle and its interaction among the mediator and the parties during the mediation session, based on the mediators' interpretation and opinions according to their experience (nodding, eye contact, gestures, facial expressions, crossing the arms,) can influence the development of the session if the mediators are aware of how to read these messages that the body cannot hide. (Navarro and Karlins, 2008) (Navarro and Karlins, 2008) (Mehrabian's communication research Professor Albert Mehrabian's communications model, n.d.)

I will research sufficient arguments identifying the analysis of non-verbal communication and why this is fundamental to the mediation process; I will also analyse why identifying parties, recurrent gestures and tones of voice, as perceived personality types of the parties, will support the mediator to improve communication skills.

Rosenberg (1934-2015), with non-violent communication, introduces us to the study of a type of communication, mainly verbal, that can be used as a conflict resolution method. A language that breaks with judgments and valuations, honest that promotes empathic relationships and a willingness to Collaboration. It is so important how we say things, how we listen to them, is necessary to always bear in mind the effects that on our behaviour and perception of the other has. (Wikipedia Contributors, 2019d)

Language is thus constituted as an instrument utilizing which we construct an accurate description of the situation presented to us, and that once identified, our real feelings and needs allow us to request reasoning. This request does not necessarily imply confrontation with the other part.

The importance of non-verbal language between both parties shows us the emotional conflicts hidden by words while the body, in this sense, tells us more about the situation or the parties' feelings. So the mediator can be successful to the extent that he/she can generate a climate of trust between the parties involved in the conflict, transmitting a sincere interest in the situation through gestures, tone of voice, body attitude.

In addition, I will analyze how non-verbal communication is a part that cannot be separated from the communication cycle and through this study, we can know more about people and their personality type and their way of transmitting emotions in an unconscious habit that is connected and thinking, according to the mediator's skills can be used to communicate better, I will highlight some researches about human behaviour in conflict, non-verbal communication in mediation and ways of communication of the human species.

This would lead me to ask some questions about this work and to explore this field; I asked myself as a mediator how can we help in the communication cycle and what to do with non-verbal communication, what signs can I detect? How could I perceive those minor signs to help to improve the mediation process? The main question is whether **an examination of body language in the communication cycle could help in a mediation process?**

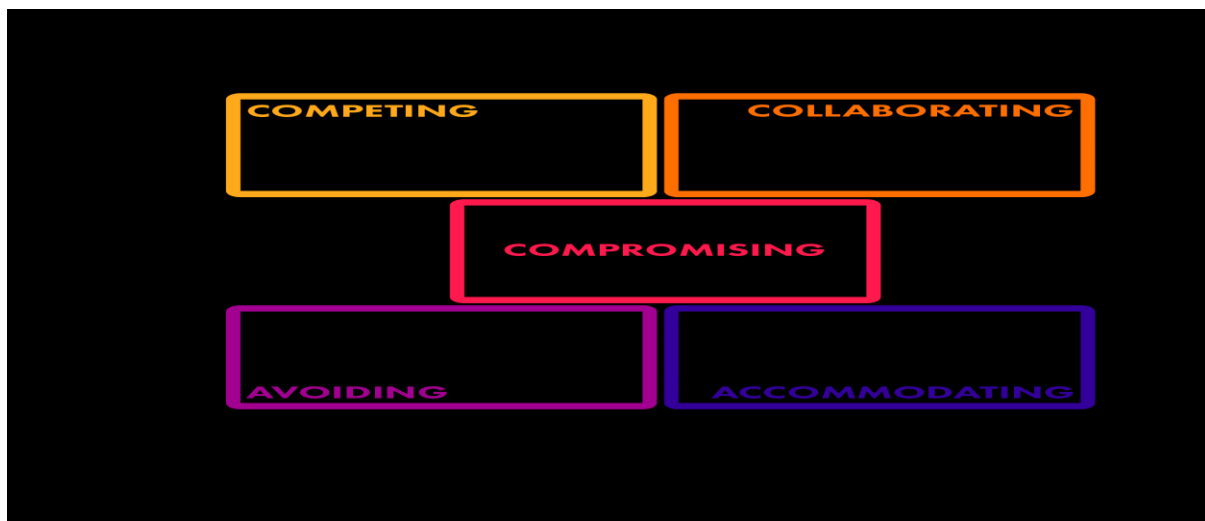
Chapter 1 Literature Review

4.1 Conflict

In a conflict, there is an accumulation of perceptions and feelings of the parties that must be identified according to the personalities of each of the parties to be able to adjust communication strategies on the part of the mediator to achieve objective criteria to generate options for joint resolution.

In 1974, Kenneth W. Thomas and Ralph H. Kilmann introduced their Thomas–Kilmann Conflict Mode Instrument. (KILFINN and Thomas, 1975) This method allows us to analyze a person's behaviour when they are in a conflict situation and how they react to describe the different types of cases and describe how two dimensions are; the first called assertiveness that describes a person satisfying their needs and concerns. Furthermore, the second called cooperation, where the individual tries to help the other party, but it is not everything because of these two stages of the conflict. Five modes are derived that we can see in the table below:

Figure 1 Table 1 - Previous studies have promoted... Thomas Kilmann Conflict Mode Instrument



COMPETING: This mode is described as uncooperative but at the same time assertive; it simply tries to win and believes that it is correct in its position.

COLLABORATING: This mode is more collaborative, trying to find solutions for both parties, trying to identify resources that help both parties to obtain results that benefit both with creative solutions.

COMPROMISING: This mode is intermediate, cooperates and is assertive, seeks mutual solutions so that the parties are partially satisfied, that is, competes but pleases, addresses the issues and does not avoid.

AVOIDING: This mode is insecure and uncooperative. They avoid conflict or problem and even postpone or withdraw from the situation as soon as they can.

ACCOMMODATING: This mode is insecure and cooperative, the opposite of competitive, sacrificed to satisfy others, shown as charity or in a pleasing way and yields to another person's views.

4.2 The Alternative Dispute Resolution

4.2.1 Definition of Alternative Dispute Resolution

The Alternative Dispute Resolution has become significant relevance because it is alternative support to solve disputes not in a traditional way but through an alternative method; it is less expensive and has some advantages that are the voluntariness of the parties to solve an issue and have a better solution for both of them, one of the things that favour the parties is to correctly identify what is the essence of the problem and from that to take actions to obtain a mutual benefit, it is effective and autonomous as long as the parties decide to cooperate to use this method.

Alternative Dispute Resolution is actually a process to be able to reach agreements, instead of going to litigation which could be time-consuming and disadvantageous and for this process, a third-party mediator is involved, who offers those services and skills to support the parties to communicate better. (Nolan-Haley, 2008)

As William Ury and Roger Fisher mention in their book "Getting to Yes" (Ury, 2016) the framework of negotiation has grown considerably and because of that, more in-depth research has been done by professionals in the sector because more than ten years ago, there was no specialisation in negotiation, but nowadays it is one of how individuals are supported to solve their problems efficiently by reaching agreements.

The new age has been strengthened through how to reach a solution to conflicts and how to obtain a YES; alternative Dispute Resolution is accepted in Europe and has generated a change to solve the interests of the parties through interest-based negotiation material that continues to take power among the parties concerned and whose primary focus is to have a satisfactory outcome.

In alternative dispute resolution, a set of at least four types can be identified, which are mediation, arbitration, negotiation and collaborative law although bargaining can also be included as another type and the concepts may vary depending on each country, but they all have similar elements and characteristics, so there are two types of dispute resolution, formal and informal. Traditional dispute resolution is carried out traditionally in courts such as arbitration where mediators are chosen by a court, which it means is a 100% judicial process where procedures are applied, whereas informal methods are friendly, lower cost and less time consuming and do not require going to court. However, as William Ury (Ury, 2016) mentioned, All people are negotiators at some point in our lives; this is the first phase where we must pay attention to the stage of communication, whether verbal or non-verbal, it is essential to identify the beginning of our conversation, from groups or business representatives to families will enter this cycle, negotiating is something that everyone should know because in our lives situations will arise in which this type of communication must be used, even with our couple we deal and decide what

activities to do during the day and are a subject of negotiation as a result and derived from these negotiations we get what we need from each other, then communication is the key and agreements are the impacts of having the same objectives and how they affect the decisions that are taken and thus to take joint decisions regardless if there are differences the strategy is to satisfy both parties. In his book, he also talks about the ways of negotiating from the soft and hard approach of each professional, some of them avoiding conflicts, granting concessions and others with exhausting resources that damage the relationship with the other party but always getting what is wanted, other negotiators mix both strategies, the suggestion is that it is always a mutual benefit is the bargaining in which each of the parties will be responsible for what to do to solve the circumstance with a fair and impartial help.

Consequently, we can say that agreements are efficient negotiating and mediating as Fisher and Ury have explained in the book *Getting to yes* (Ury, 2016), the relationship between the parties will be equitable and fair through the methods and positions of each party through the four principles which will be effective for the resolution of any conflict 1) Separating the people from the problem 2) Focusing on the interests 3) Originating different options to reach agreements 4) The objectivity of the parties, it means the criteria are the basis for the agreement, Then the parties present the problem and their interests, analyse it and investigate options, then plan to respond to the situation, discuss the issue that has led them to take the path of Alternative Dispute Resolution and find the outcome, in this whole cycle communication is the most important thing and in this Project, the argument will be the reading of non-verbal language during the process.

Separate individuals and issues

One of the guidelines that William Ury mentions in his book is to be able to separate the individuals from the issues, i.e. if we associate them, they will generally take reactions and feel it as an attack, so separating them from the issues allows them to address the issues without damaging the relationship between the parties and the perspective or point of view changes because they are looking at the problem and not at who is making a mistake, which makes communication closer for both parties and makes the situation clearer to them, The author of the book "*Getting to Yes*" (Ury, 2016) describe three types of problems the contrasts between the meetings because the partners must understand each other's

perspective however they should not limit themselves in their feelings or blame the other for the problem, the exciting thing is that both parties make recommendations to obtain a solution so that they both find the common interest and help each other to achieve a beneficial result. (Ury, 2016)

It also talks about feelings and emotions because the parties need to recognise where they come from, how to identify them but at the same time to allow the other party to communicate their feelings and gestures, for example, can generate compassion, sympathy or strong emotions, but one of the essential points mentioned by the authors is communication cycle, and how mediators address the parties showing their impartiality, the mediator should also analyse the reactions of the parties to create the right atmosphere and how the parties communicate with each other and have active listening, so the mediator should be very clear in his way of communication to have the attention of the parties, also in the mediator's skills should control the situation in case the parties do not follow the rules, summarize and transmit at the same time the agreements at the end of the session, that is why his primary skill should be communicated during the negotiation phase.

Focusing on interests

Most of the agreements are derived from the interests of the parties; they look for some advantages to obtain favourable answers for the participants of the session but always focused on the subject; each party has different interests, but at the same time, they can share them, or their needs will be similar for instance security or profit, then if both recognise that they need something similar they will indeed analyse it together to reach agreements and propose different strategies of solution.

Generate Options

In addition, another essential part of this cycle is to generate options, this focuses on the creativity of the individuals to solve a problem, to reach this they must have several ways, this will only be achieved if the parties meet in an environment where the main activity is brainstorming for solutions that suit both, everything is to make creative and productive proposals, i.e. review the problem, The next phase will be to evaluate them and have the desired result if they do not obtain it, they will be able to perfect

proposals and for the common good improve the initial proposals, the vital thing in this process is to improve the solutions and benefits, especially if they have a precedent to back them up.

4.2.2 Mediation

In my research, I have found a description of mediation; the Law Reform Commission describes mediation as a process involving a third party whose main feature is "a cycle that facilitates, mandates and consents to the parties choosing an outsider, impartial and free to help the parties communicate with each other and find a common thing", then the commission suggests that for this contrast to taking place there needs to be an iteration in the two cycles or parties and that the conciliator investigates and encourages through questioning the parties to pursue and propose solutions, the mediator, in this case, is the figure who will be fair, neutral, organised and independent and indeed must ensure that meetings are held, and obligations are established between the parties to resolve a problem with a mutual outcome. (Ireland. Law Reform Commission, 2008)

Historically the legal meaning of mediation is evaluated as a derivative of the Latin word "MEDIARE" which is defined as being in the centre or in the middle of something, however as it advances it discards other double meanings and has expanded as one of the alternatives in a new field where people with some other profession can participate depending on the environment where the interaction is used and the result to be obtained, the various authors and connoisseurs of the subject underline Menkel-Glade 8 forms of mediation, Boule describes 4 models, Riskin has a network of mediators and Alexander presents 6 models of mediation, while Sourdin is inclined not to have a definition of mediation because of its different cycles and fields in which it develops, but in fact they all agree that the essence is the mediator's ability to communicate and to carry out a good process and a defined communication with the parties, however after all these concepts the commission suggests that mediation should have a legal

definition in Ireland in order to have a more explicit meaning on how to use it in terms of Alternative Dispute Resolution. (Boulle, Goldblatt and Green, 2017) (Menkel-Meadow, 2012)

Why is mediation highlighted in alternative dispute resolution? Because it is widely accepted as an intelligent interaction of a person called a mediator who gives support to the parties who are wondering how they can solve a problem, using specific strategies to settle their differences, the parties participate in sessions where the fundamental objective is to talk about their needs and interests, this cycle of communication helps the parties to form agreements, assisted by the mediator who is a professional who aims to generate a connection between both parties and intervenes to investigate the problems and their origins, but never advises about what the parties should do because it is totally impartial and can even decide which cases to mediate and which not to mediate, within this structure there must be at least two meetings with the parties in order to reach an agreement and the fields in which a mediation process can be carried out are in the labour, family, local or between companies. This cycle is always private, and the parties cooperate intending to resolve their differences; mediation is recognised as a session to put an end to disputes and can deal with any matter; under these circumstances, it is similar to common law, which aims to resolve conflicts.

The parties use these procedures to help in the meetings to have an outcome as soon as possible, and at this stage, the mediator's ability to communicate is fundamental, and the mediator must be a trained expert, with accreditations certifying him/her as a competent professional.

In mediation, the atmosphere should be pleasant for the parties to participate without feeling under pressure or forced because from the beginning, they have come to the meeting voluntarily. However, the power of the mediator and his verbal and non-verbal skills should help in the communication process; mediators mostly have verbal intervention skills, but they might not be familiar with non-verbal communication, by identifying this part of the communication process can avoid mistakes or stall the process, non-verbal language is also a way of communicating apart from words, so verbal and non-

verbal is a set of elements that gives a meaningful message and also a lot of emotions, although sometimes it can be unclear and misleading and as a consequence wrong conclusions.

According to law schools, there are some cycles of exchange of concepts, intervention and affirmation, which are called debates; these must be solved through selective strategies, in mediation techniques are particular cycles of arrangements, and they are related but not forced as in customary law because each one chooses the conditions he wants to have and which are more attractive for the parties, i.e. there is no sentence, but a result is obtained without a public official, as it could be the arbitration, in this case, the mediator helps the parties to solve their problems.

Previous research corroborates the belief that there is no specific method in the exchange of communication, as each condition is different, however some mediators, using some elements that are fundamental when the individuals meet, describe themselves, and talk about the process, their intervention during this phase, the rules they are going to follow during the meetings and then allow the parties to talk about them and their points of view, to move on to the phase of examining the problem and going deeper into the possible solutions or what are the offers that the parties will put on the table to move to the next phase which is the agreement phase, then during this phase, the parties and the mediator communicate assertively to reach a dignified solution through negotiation, in this phase the mediator can have private discussions with the parties "CAUCUSES" some of the mediators combine in their processes this scheme to reach agreements with the parties.

Mediation is identified as a process of negotiation and communication, in which the mediator, according to my research, will have the possibility to identify non-verbal communication and obtain information of what parties may be feeling or thinking, as body language may express involuntarily, in this interaction it is crucial to reflect on how significant the mediator's intervention will be, in order to address the problem. Therefore, the commission perceives voluntariness as a basic rule in the mediation process, and it is described as a magical process where the satisfaction of the individuals is remarkable. Moreover, communication is a naturally delicate cycle and strengthens the recognition of the parties in the absence of agreements to reach a specific outcome, and indeed the mediator's way of speaking is not limited, and this figure can stop the process at any time.

4.2.3 The Role of the Mediator

A mediator has no authority and is not responsible for the parties to fulfil their obligations because he is impartial and only support, moreover can help the parties in question to communicate and the interlocutors in the communication cycle to reach agreements, but he does not oblige at any time the parties involved, in this case, the parties have a similar objective, and they only try to achieve it with the help of the professional, they can express their points of view about the problem and design solutions that favour the people in the communication cycle, to reach this point they will talk about the possible ways and make offers to reach specific agreements, then if these offers are accepted by both parties the mediator will try to solve the problem by negotiation, these meetings are private, or the mediator can have the versions of the parties in question from the beginning.

Recent studies have promoted that the mediator is an expert and specialist who has the ability to communicate adequately; however, this may depend on the issue presented, but all specialists must have the ability to interact efficiently within a debate to direct their intervention on the subject, the fundamental idea about mediation is to communicate the evaluation of a person's attitude to a situation, and he/she will have the ability to do so in any position he/she is confronted with as this is fundamental maybe not that he/she masters the subject however every mediator needs experience and talent to manage and so what are these talents we are talking about? Mainly if it is in a specific topic, he/she must master the subject and above all the communication of him/herself and identify the communication of the parties to be assertive in his/her questions and understanding of the problem. Consequently, the mediator offers and supports during the mediation cycle fairness and fair treatment to ensure a good process and, as discussed above, assists the parties in the exchange of communication. This implies that he/she clearly knows the objective of the dispute from the parties and then discusses it during the session and separates the questions that arise to meet the challenge of helping the parties involved.

In the mediation scheme, communication is the consequence where the mediator adjusts himself to evaluate the type of result he wishes to obtain according to the components and the results that will become a problem. (Hall, 2017)

The academic community has extensively explored the different types of mediators, and according to the Society of experts at a conference they held in autumn 2002 (Nationwide Academy for Dispute Resolution UK) they have highlighted that at least 28 types of mediator have been identified, but these are grouped into four types that are the most commonly recognised and evaluated

The Rescuer: This type of mediator usually has no legal training and is identified as one who sees the court as a terrible place for individuals and tries to keep the parties away from it; his focus is on private meetings, so the style of this professional is friendly, analytical and the environment he manages is usually to rescue small cases, which can be between neighbours, family problems or adolescent issues, he does not believe much in courts or lawyers and usually expresses something against them.

The Third-Party Negotiator: This figure is the most used in the UK; the mediator is the first person to negotiate, he/she first does the central meeting where he/she explains the process, rules and stages and then isolates the parties and separates them, he/she then extracts the information from the parties and deciphers it and then obtains an agreement, although the parties may think that there could be a lack of impartiality, this model is more used in public mediations worldwide (Israeli/Palestinian treaties).

The Deal Marker: This mediator often uses separate meetings, is manipulative to the point of reaching an agreement quickly, has an answer about the debate and pushes for the parties to offer it in their meetings; this deal maker accepts that they realise what is ideal for the meetings, this type of mediation is more established and the mediator is the one who best identifies with the versions of the parties and the vision that the parties have of him, this type of mediator acts as a conciliation judge and is known in the mediation milieu by lawyers and mediators, his motto is "the end justifies the means".

The Orchestrator: The Orchestrator is the most current and most used style of mediator because of his nature in the process, his communication style is evident in asking questions and outlining the problem during the meetings, his approach is aimed at pacifying the parties, and he ensures that the main focus

of the process is that the parties talk to each other about the obligations, the costs, the damage caused, the decisions made, the decisions taken, the results of the mediation and the results obtained; In this case, the type of mediator is the keeper of the cycle, and in case he/she cannot get the parties to reach an agreement he/she will do his/her best to intervene again and again until the parties feel that the mediation process was satisfactory and there was at least some result.

It is essential to know that in the role of mediator, the figure is referred to as a provider of mediation services able to manage various forms of conflict through his skills and experience as well as his clear and timely communication, whenever the parties decide to go through the process or have a mediator assist them, however, it is essential to clarify that a mediator will not constantly adapt to the form of the dispute and will not offer solutions, he is a highly qualified person to fulfil his role, and his ultimate goal will always be to help the parties to reach an agreement; however, it is essential to clarify that a mediator will not constantly adapt to the shape of the dispute and will not always offer solutions.

4.2.4 Mediator Tools

First and foremost, the mediator must have a set of tools that allows him or her to enter the scene and understand the ideas of the parties, remain calm and have the emotional intelligence to be in an atmosphere where there is conflict, irritations, rivalry, tension and reactions between individuals and their deepest needs and interests. Consideration is one of the characteristics of a mediator that can be used as a tool when mediating. Paying exceptional attention to what the parties are trying to say reflects a commitment on the part of the mediator to be willing and able to retain in full what the parties are explaining about the problem, active and conscious listening, means that understanding is conveyed through the right words, but also the way of speaking, the look, the gestures, the non-verbal communication, the posture, all these forms of body language also express compatibility and understanding. (Gryczan, 2010) (Mediate.com)

Affirmation is another tool to use during the process when the parties communicate with all their emotions in a difficult situation by talking about their interests, then an effective mediator or interlocutor recognises and affirms the story being told, the feelings or qualities of the speaker, this involves recognising non-verbal communication and tuning into the speaker, when the parties feel listened to they change their attitude.

Often the mediator in his communication cycle acknowledges the parties who are in the session presenting their arguments, then the recognition of the parties has three components, the mediator identifies, the story that is told, the feelings of the interlocutor and the interests or qualities in question, this also implies recognising the verbal and non-verbal language and through these elements usually acquire knowledge of the most profound goods, However, acknowledging does not mean having an arrangement, this language is identified for the mediator to build trust with the parties, e.g. telling them that you understand what they are saying gives the party peace of mind that you are communicating assertively and putting the focus on the problem, the mediator also shows trust and openness to understand the situation so that the parties achieve an authentic system of communication.

In practice, during the process, the mediator offers and has the opportunity to communicate between the parties and make use of the tools at his disposal to resolve the conflict.

1) In the session with the parties, you can make use of a Venn diagram to take notes and clarify ideas; it is vital that you write down the ideas that are presented in the meetings, these notes taken will enable the mediator to see what is at the heart of the problem and where each of the parties stand on taking a solution, e.g. in a Venn diagram, you can take notes and write in each of the circles and in turn the things that are common to both parties in the middle of the two processes.

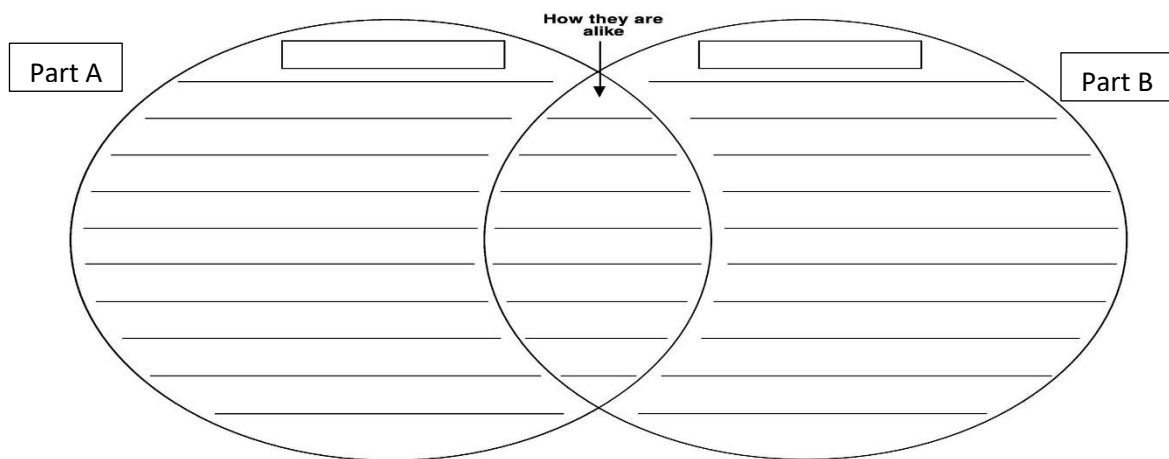
2) Often, the parties feel anxious, so having something on the table like cotton balls or something they can touch with their hands will help them to feel relaxed and communicate better as it will lower their stress level, they can even take a break and do a colouring of a mandala to help reduce their anxiety.

3) The mediator focuses on the process and not on time; however, it is essential to clarify with the parties the turns to talk; checking a clock would be annoying, so an hourglass could be used as a tool.

4) The meeting space should be serene and quiet, and it is good to provide some snacks or drinks such as water, coffee or tea, some plants to have a pleasant and trusting environment.

Figure 2 Venn Diagram

Writing words to describe the situation, Issues, Personalities, Behaviours, Commun interest etc



4.3 Communication

“Even if you are talking directly and clearly to them, they may not be hearing you. This constitutes the second problem in communication. Note how often people don't seem to pay enough attention to what you say. Probably equally often, you would be unable to repeat what they had said. In a negotiation, you may be so busy thinking about what you are going to say next, how you are going to respond to that last point or how you are going to frame your next argument that you forget to listen to what the other side is saying now. Or you may be listening more attentively to your constituency than to the other side”. (Book Getting to Yes) Page 20. By William Ury (Ury, 2016)

To talk about communication is to talk about studies, processes, exchanges and a game between the characteristics of the nature of human beings and the rest of the world. Therefore, let's put forward three definitions of the concept of "communication" and finally create a description of our own.

1 A field of study whose aim is to explain how communicative exchanges take place and how they have an impact on society.

2 A process in which the sender and receiver create a connection or an interrelationship in a given time, space and context to exchange, share or transmit information, i.e. ideas, meanings and/or stimuli.

3 Human communication is part of the characteristics of thinking beings; it involves the use of linguistic signs, it gives the possibility to signify the use of thought, reasoning, will and freedom.

From these three definitions, we can then highlight that:

Communication is a process of giving and receiving information through any channel, there may or may not be feedback, but there is always a message and a sender or entity that emits it.

Human communication is a process that is characteristic and inherent to the human condition, as it encompasses exclusive abilities. These include linguistic signs, the service of thought, the ability to signify and create consensus among social groups. Also is a vital part of our times and the role it plays is not only for professionals; this exchange of ideas, verbal and non-verbal language, meanings and stimulation, known as messages, affects society directly.

4.3.1 Different communication models

Communication is a process and in each definition obtained, it is possible to find the same concept

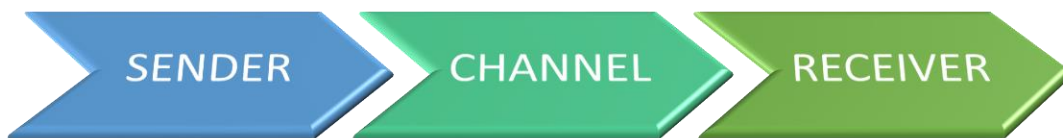
A process implies dynamism and interaction of elements within successive phases, where there is a relationship between the different aspects or features towards a common goal. Every process implies action, movement and therefore leaves no room for static phases. They are constant and irreversible

actions. In terms of communication, the concept "process" refers to "any system characterised by constant change".

Thus, the communication process is composed of phases and elements in constant movement, change and effects, whose interaction occurs through the exchange of messages (ideas, stimuli, signs and codes). The main characteristic of the human communication process is that it is purely social, thus involving various types of consensus between the participants and the elements for their understanding.

(PROCESS, TYPES & MODELS COMMUNICATION, n.d.)

Figure 3 Linear Communication Model



2500 years ago, the famous Greek thinker and philosopher Aristotle mentioned that communication was composed of only three elements: (Communication Theory, 2011)

From this model, many more have been created with more elements and complexity.

Sender: Elaborates and sends the message.

Message: A set of signs that communicate something (code).

Code: A set of signs and rules known to sender and receiver to structure messages.

Receiver: Receives the message

Channel: Means of transmitting the message

Context: A set of circumstances surrounding the communication process.

Shannon and Weaver Model (Mathematical Theory)

This model mentions the following

Sender: the sender produces a certain number of words or signs that form the message to be transmitted and initiate the communication process. Within the set of thousands of messages, one is chosen.

Example: when a person has a conversation on Whatsapp and begins to write a greeting to a friend.

Transmitter: purely technical transmitter; it is responsible for converting and adapting the message into a unit composed of signals or codes for the channel that will transmit them. In other words, the transmitter adapts the ideas into texts that are in turn processed into codes that will be sent to be decoded again into texts that will appear on the receiver's telephone screen.

Channel: a technical medium that will carry the coded signals. In our example, the channel is the mobile phone that has the message.

Receiver: refers to the technical receiver; its function is the same but the reverse of that of the transmitter. It decodes the transmitted message and conducts it through the channel to convert it into a language understandable to the actual receiver called the addressee. In this context, we can refer to the mobile phone of the other person we are talking to.

Addressee: the actual receiver, the person to whom the message is addressed. For example, it is the friend you are talking to by WhatsApp

Noise: the agent alters or interrupts the signal during transmission. Noise can be physical (technical) or cultural (non-technical). Cultural noise occurs within the psychosocial context, such as differences between languages, customs, traditions or different consensuses between groups.

In our example, it could be that the conversation has already started and between messages, one of us has a poor signal, and some messages arrive out of order or delayed and change the direction of the conversation, it is a technical noise, but if the other person is a foreigner and I do not understand everything he writes to me because I do not master the language, then it is a cultural noise.

Berlo Model

Sender known as communicator, enunciator, encoder or encoder. It takes the ideas, and thanks to language, sends the message to the receiver

Receiver: also known as enunciator or addressee. Receives the message from the sender. According to Schramm, a receiver is characterised as passive and does not generate feedback, while a receiver thinks and decodes and generates feedback.

Communication skills: in the case of the sender, it is thinking, speaking and writing, drawing, painting or gesturing (coding skills of speaking and writing). For receivers, they are thinking, reading and listening (decoding skills).

Sender

1. towards oneself: must feel confident in communicating.
2. to the message: be aware of the message; if it is good, it can produce positive attitudes.
3. towards the receiver: know something about the receiver; if you know whom you are addressing, communication is better.

Receiver

1. towards oneself: feeling able to receive messages from the sender.
2. to the message: whether the subject is familiar or not.
3. towards the receiver: whether or not he/she has reference to the sender. It can be a negative, positive or indifferent attitude.

Knowledge: Sender, What he/she knows about the subject he/she will communicate. Their knowledge has an impact on their success in expressing it. Influences education and experience. Receiver, What he/she knows about the subject to be communicated. The type of reception depends on the kind of understanding.

Socio-cultural: Sender and Receiver have to think about Beliefs, values, customs, social position and habits that make up it and social group.

Message: the set of gestures, ideas, signs or codes sent between sender and receiver. In written language, the message is what is written; in verbal language, the message is the speech, and in non-verbal language, the message is the gesticulations, postures and movements. (PROCESS, TYPES & MODELS COMMUNICATION, n.d.)

4.3.2 Non-verbal Communication

Non verbal Comunication by Dr Paul Ekman

One of the most influential researchers in the field of non-verbal language research is Dr Paul Ekman, who since 1954 in his early research on this subject has been the first to focus his studies on gestures and facial expressions that he describes as universal and that are also innate and that is why he calls them universal. That is why he refers to 7 emotions mentioning that every human being, regardless of race or country, has these characteristics and can gesticulate joy, sadness, anger, surprise, disgust, fear and contempt. His studies are profound from Darwin's theory to research in different cultures to reach the study of facial expressions, which reveal the mentioned emotions; he also argues that hand gestures and repressed or expressed feelings are also acquired in our environment, and that facial microexpressions are involuntary and therefore can reliably betray a lie when you are trained enough to see them. (Wikipedia Contributors, 2018b)

Non-verbal communication according to the Mehrabian theory.

The research by Professor Albert Mehrabian describes the understanding of communication since the 1960s. As Dr Ekman has focused his research efforts on such topics as body language and non-verbal

communication, his work has been fascinating because, in this field, he has developed proper research to make statistics about communication in society.

Previous research corroborates the belief that the human species has succeeded in developing non-verbal communication to a higher level than verbal communication, which is why its understanding in the area of Alternative Dispute Resolution is essential or simply to build healthy social relationships and suitable environments in any setting where two or more people are communicating.

As Mehrabian argues, a message is made up of the following percentages

7% is verbal, 38% vocal (tone, overtones and other characteristics) and 55% signals and gestures. The oral component is used to communicate information, and the non-verbal component to communicate individual states and attitudes. (mehrabian's communication research Professor Albert Mehrabian's communications model, n.d.) (The British Library, n.d.)

This researcher states that the verbal component is 35% in a face-to-face conversation, and more than 65% is non-verbal communication. These studies are specifically aimed at the content of the messages we transmit, and it is the words that occupy a minor place in communication. In this way, non-verbal communication is the one that allows us to obtain the highest percentage of information about our interlocutor, as words represent a small part of what is communicated.

The above considerations show how non-verbal communication has gained credibility in many areas and allows the need for its study and research to be raised. For example, in a case or investigation in which a judge must make a decision based only on witnesses who support the different versions of the parties, non-verbal communication can certainly provide complementary elements of analysis, that is, the case for the legal area

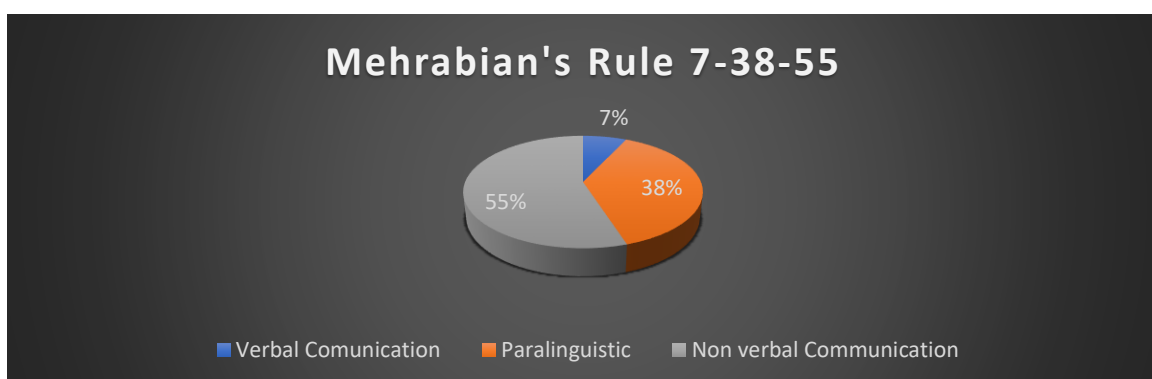
However, when the mediator can become aware of the non-verbal communication of himself and the parties, it is possible to reflect on whether what wants to communicate is what one is actually expressing and what one wants to convey, I mean the image we show to others says a lot about us and influences what people think about us. Non-verbal communication can advance to levels where it is possible to know what an individual's personality is and how reliable they are in what they say.

According to the mediation magazine in its 2005 article written by the mediator Norman Page of the University of California, he evaluates and interprets that a logical name can be given to non-verbal language (paralinguistics), so in a mediation session, there are two factors which are voices and vocalisations, the former refers to the tone and sound of the voice that is to say the mental condition and the idea of oneself while vocalisations are the non-verbal sounds like crying or laughter that transmit feelings. (Page, 2005) Mediate.com

In this case, the mediator must be aware of his voice, which means he must manage a tone that helps to develop during the mediation session an atmosphere of peace, confidence and tranquillity for the parties, i.e. to speak clearly and with rhythm and his management according to what he wants to communicate so that in turn the parties can build a healthy session that brings as a consequence a solution but above all that the parties can expose all their doubts and offer alternatives, then the mediator will identify the tones of voice and could ask questions that deepen in a solution for the parties.

Figure 4 'Mehrabian's formula' (7%/38%/55%)

- 7% of meaning in the words that are spoken.
- 38% of importance is paralinguistic (the way that the words are said).
- 55% of meaning is in facial expression.



4.3.3 Facial expressions

If non-verbal language helps us and allows us to highlight the emotions of humans, it would be good to ask if there are any differences between individuals and if it has to do with gender; as Dr Ekman says, micro-expressions also reveal emotions and, therefore, involuntary reactions, but as I mentioned in the previous paragraph, there is no difference in culture, as they are universal, natural and spontaneous.

(www.youtube.com, 2018) Universal Facial Expressions

Although not all professionals such as anthropologists and psychologists, who have a great deal of experience in the field of language studies, are convinced by these studies, they argue that research is done in literate cultures to match words to emotions, but that emotions do not have a perfect translation and that emotions are produced by culture and not by evolution. However, some studies in more than 20 western and eastern cultures reveal that the expression is the same about emotion, and despite having different languages, it has not been observed that culture attributes an other emotion to the same expression because the movements of the facial muscles are the same when showing a face about an emotion, regardless of whether the person being analysed is from Asia or America Paul Ekman (Emotions Revealed Page 30)

The looks and facial expressions can be called pictorial, especially in the western or Latin culture they are very expressive and reflect states of feelings or emotions; human faces show the essential feelings and emotions as Dr Ekman says, for adults, unlike children, can change or hide them and hide the true feelings, a child is transparent and shows his gestures more easily while for feelings like fright, indignation and hatred it can be modified by an adult, however, adults do not always offer the basic feelings; A child is transparent and shows his gestures more efficiently, while feelings such as fear, indignation and hatred can be modified by an adult. However, adults do not always offer the basic emotions, if the mediator is astute and has the skill to read the micro-expressions, he will realise that the meaning is different, for example, if one person is nervous while the other person is telling the facts

he could smile, it could be helpful if in a session the mediator comments something about the gestures trying to understand what the parties are feeling and reformulate the questions, the mediator does not show his feelings and must control his facial manifestations because he is neutral, but he could identify how the parties are feeling in the session.

The advantages of knowing the micro-expressions, according to Dr Paul Ekman, the first is that they help to increase attention, the looks are a set of signs that can reflect, for example, enthusiasm unlike the movements or non-verbal language, the face is the part of our body that gives us more messages because regardless of culture or language we can identify the feelings, When studying this field, it provides the advantage of being able to determine when the feeling is just beginning, if it is being hidden or if the part is conscious of what it feels, at the moment in which a person wants to cover his feelings it will be possible to identify the true meaning in his face and the small movements of the same one, However, if the mediator is trained he/she can find out how to detect them continuously. (www.youtube.com, 2018)

4.3.4 Body Language

The body language has been a field studied by several authors, because it is one of the most considerable percentage of our body and a instrument to communicate, and we can find an infinity of books authors dedicated to the subject, not only in the educational fields but also in the social and human environment, as mentioned by the author Joe Navarro in his book the dictionary of body language about how to identify the non-verbal language and how also depending on the gender of each person can make small actions that can be interpreted in different ways; He also mentions in his book how vital is the observation of human behaviour and from Darwin's theory (1859) about the communication cycle to the more complex ones we have today, how an expert who has worked for 25 years for FBI has been able to identify and learn how to use body language; As an expert who has worked for 25 years for FBI he has been able to identify and remember to read people's gestures, through looks and face readings and according to Dr. Paul Ekman agrees that bodies reveal our moods and emotions and how they can

become universal, how people can even lie and how they are uncovered by non-verbal language that shows what they really feel. (MANCHESTER, 2020) (Edwards, 2018) (Wikipedia Contributors, 2018b)

Joe Navarro, in his book *Everybody is Saying*, relates how touch, human body movements, posture, body adornments such as clothing and jewellery and even the tone of voice we use or the volume at which we speak say more than words. The human body is capable of emitting thousands of non-verbal signals and languages, how we can encode them, these studies could undoubtedly take quite some time, as we are talking about observation, evaluation and validation, and after those stages, we will be able to identify and interpret non-verbal communications. (Navarro and Karlins, 2008)

In a mediation session, I would relate that reading body language is essential, as it can prevent misinterpretations in the communication cycle with the other party, so it is vital that the parties and the mediator express themselves according to what they are trying to communicate and be assertive in the minor details and not just focus on the words.

Body language, unlike verbal language, allows to reflect attitudes through the body; it is a natural, spontaneous and silent form that allows facilitating the understanding of the individuals and what is meant; when a person communicates, he does it with his whole body. The mediator who knows how to interpret the body language correctly has a fantastic advantage in communication with other people. In this way, he or she can adapt to the feelings of the person in front of him or her and more easily create an atmosphere of trusting conversation. This has a positive impact on both personal and professional life. At the same time, non-verbal understanding signals are the first step towards deliberately using one's body language. In this context, it is not a matter of consciously deceiving others but of basing what we externalise with an authentic and confident attitude. Non-verbal communication allows us to go deeper into the relationship with the other. Although some aspects are read unconsciously, it can help to understand aspects of mood, disposition; it helps to generate empathy and trust with the other, or on the contrary, to create a distance or obstacle when establishing relationships.

Conscious and unconscious body language

When we breathe impatiently, roll our eyes in annoyance or pucker our lips because we feel offended, we are revealing our feelings, even if we do so for a fraction of a second. In the same way, just as these signals are given unconsciously, they can also be read unconsciously. This is why there are some people we don't like from the very first moment or whom we are immediately passionate about without being able to say precisely why. We perceive body language as we concentrate on what is being said or let our thoughts run away with us.

However, in addition to unconscious body signals, these are trained and shaped by our cultural environment. We use them in the right situations to give a specific message or to substantiate what we are saying. Typical examples are the raised index finger to express "attention", the raised thumb to express approval or directing the palms of the hands at the person in front of us. However, care must be taken in these situations, as conscious body language must be read in the cultural context. A certain hand gesture may have completely different meanings in other continents or other cultural circles.

As I have identified from my research, care must be taken when using or interpreting body language in a cultural exchange, as not all signals have the same meaning all over the world. On the other hand, body language also opens up possibilities for communication, even if you do not speak the same vocabulary. At the forefront are gestures and facial expressions, which are already used instinctively and are understood all over the world because they are directly related to basic human emotions. And a smile will be understood almost everywhere as a sign of accessibility and friendliness. In the case of all other gestures, it is vital to be sure of the meaning in each of the cultural circles.

Body language should not be taken as an absolute truth because many environmental factors can influence it. That is why you should never conclude by interpreting a single body sign; the key is to observe congruent sets of signals and to rule out possible external causes (temperature, noise, tiredness, etc.).

4.3.5 Conclusion Literature Review

Under this background, I conclude with the first part of my research where I highlight the point of view of several authors about body language as it is vital in the communication cycle and this, in turn, has numerous elements and signals that a mediator can identify to generate a mutual relationship with the parties but also be an instrument for the mediator to analyse in-depth, that is to know these theories and have adequate training. However, it was essential to add some historical data and explain the key pieces and components of my project because it covers different disciplines.

Since humanity exists, the communication processes to satisfy the basic needs have begun; 32,000 years ago, this phenomenon allows the human being to develop, acquiring knowledge for their training in different fields, how each person communicates makes this cycle complex because the perception of reality is different for each human being and is based on beliefs, thoughts, expectations and experiences, learning from these differences is that they become social conflicts.

Non-verbal communication is the element in the communication system that allows us to obtain information about the feelings and thoughts between the parties in a mediation process; it can also be interpreted as the identification of what a person thinks because body language expresses even more than verbal language, as non-verbal communication is done involuntarily and some sure signs and gestures cannot be hidden in a person as they are natural to the human space regardless of race, culture or country. By understanding and identifying this type of communication in people gives us the power to have access to privileged information, helping the professional to determine if he/she can understand this type of human communication; for this reason, evaluating and researching about non-verbal communication is so essential to understand and increase the ability to understand the human being, especially in the area of mediation, non-verbal communication can be a method that could improve the performance of mediators, taking into account behaviours and body language that may be relevant during the process, In other words, it helps to identify and deepen the study of human behaviours and suggest that it has a crucial role to play when they can solve an issue.

Chapter 2 Research Methodology and Methods

For my research in this chapter, I will use the quantitative method, which will allow me to collect data and analyse the non-verbal language through the structured surveys with particular questions that I will conduct among mediators to measure the skills that professionals need in their field of mediation, as I discussed in my research through books and background information about communication cycle, It is essential to build an environment of trust in the relationship with the mediator, another element is trusted whose methods are necessary for problem-solving when the parties choose to go to Alternative Dispute Resolution specifically mediation for this dissertation is essential to go to the Development of a survey study to have elements of non-verbal communication during the process. (Overview of Quantitative Research Methods, 2015)

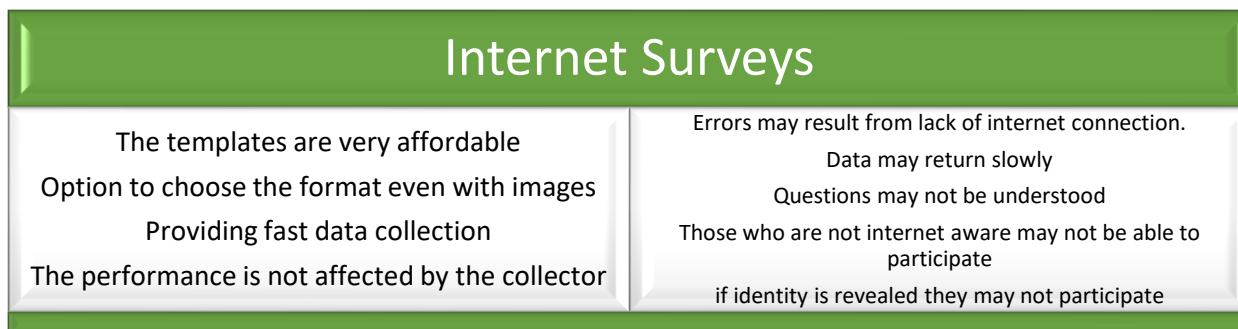
I will then detail how this section addresses the gaps that may arise during meetings with mediators from the very beginning when they first come into contact with the parties who wish to obtain an outcome that they can deal with.

In this study, according to significant precedents about the non-verbal language, the predominant method is to explore in-depth how mediators use non-verbal language and whether they should identify in time those signs generated by the parties, So I will then adopt a rationale that will give my project the arguments necessary to establish and question whether reading this language will be a valuable resource for the mediator to obtain detailed information and to understand if there is a gap between the communication cycle (body language) and the mediation process, although it is not easy to argue with literature, the only way to support this work is through the mediators themselves and their experiences and how the respondents can contribute to this collection of data disclosure of preferences and practices of non-verbal communication

One of the strengths of the quantitative method is that data can be collected, especially if it is related to online surveys; this has been an alternative in the time of Covid 19 because of this ability to reach different niches, the easy way to apply it and that it represents a low cost, thus achieving the necessary details for research, depending on the purpose of the questions and their order can give us evidence for

analysis, even make statistics, measure the percentages and reach the right conclusions. (ResearchGate, n.d.) (Salih., 2017)

Figure 5 Advantages and Disadvantages of Surveys by internet



To explain the impact of this research, the population that I will use will be a sample of 30 mediators, terms that based on their experience and based on their knowledge can provide data; in my survey, I include an explanation of my project, one of the basic questions is if the person to whom the survey is addressed is a mediator, otherwise he/she would not be a candidate to provide me with data and evidence.

In my research, I will present a survey (Appendix 1) that is understandable to participants about non-verbal communication based on literature research about the actual actions and aspects in a mediation session; the answers are multiple-choice describing the elements of body language and actions that mediators handle during their process.

Consequently, to obtain accurate data from the survey I have designed, I have formulated surveys composed of 17 questions which means that I will obtain the responses considering that everyone answers all the questions; the link will be sent via email to the mediation institutions explaining the purpose of my research, the following are the institutions that received my survey on non-verbal communication.

The following institutions were the ones that supported me in obtaining my data from Professionals

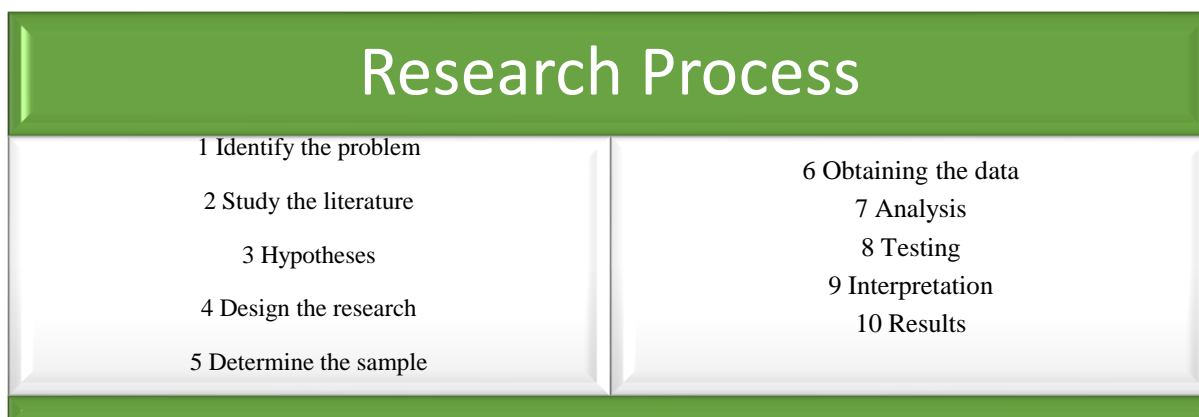
The Mediators' Institute of Ireland
Mediator Beyond Borders International
United Nations Peace Marker Mediators
Irish Commercial Mediation Association
Law Society of Ireland
International Mediation Institute

I also searched the web for more information about mediators in Ireland and the world; some of the organizations that I focused on are international because I was interested in the variation of my survey about cultural issues and to know the opinion of different countries, in this project it is important to have the point of view of mediators and that they could understand my concerns about how to improve our mediation process.

As defined in the Handbook of Research Methodology A Compendium for Scholars & Researchers written by Indian authors, the research should be specific and concrete about our doubts, it is always important to ask questions that help us to question the evidence we need to find, this, of course, is an art and this research can be used in a technical sense, if a problem is detected, the next step is to formulate solutions, analyse data, make hypotheses and reach the conclusions of the topic based on percentages or statistics to express the data as a result of a survey. (ResearchGate, n.d.)

The following steps are the basis of how to do good research to get the results

Figure 6 Research Process



Chapter 3 Presentation of the data

The results of the data presentation are very important my intention is to show the findings derived from the survey sent to the mediation centres to be completed by the professionals in the field of mediation, being the quantitative method the one I decided to apply, I will analyse and discuss the information, on the other hand develop the key themes according to the information obtained and based on the literature review, but also highlight from how the data is ranked, what has been the results found from the sample size and then represent it in graphics and tables displaying some percentages, this information will be significant to analyse in chapter 4, I will present in more detail the analysis of the data, this information will be meaningful the main objective is to show and demonstrate with statistics and mathematics through percentages how the identification of non-verbal language can be measured in the area of mediation and to show that it is one of the most relevant issues in the framework.

Identifying the data from the gender and years of experience of the mediators and whether it makes a difference when the parties are from a different culture will be an essential contribution, and even the open-ended questions give a little more evidence of what they think and how important it is for the mediator to identify non-verbal language from the beginning of the session.

Exploring this data helps me to identify the key points and, therefore, to detect new research opportunities about conflict resolution and non-verbal language, but not only in the area of mediation

but also for other professionals. As Dr Paul Ekman mentions, this type of language is universal, and even software has been developed to help us to detect facial expressions, hence the importance and relevance of the topic.

To summarise how I am going to present the data analysis is that through the results and answers of the experts can generate an understanding of the perception of body language and how to help mediators to develop a comfortable environment for the parties, especially in phases of tension and according to my research in the first part of my dissertation there might be a lack of information in the field, mediators have efficient skills and abilities to develop their work on the other hand mediation is getting more and more popular day by day, so everything that can help in this area, even pieces of training for the field of mediation will help to develop their relationship with the parties in the sessions, non-verbal language is undoubtedly an area of opportunity that can impact a lot in conflict and the issues diversity.

Chapter 4 Data Analysis

To substantiate the results according to the analysis of the data obtained through the survey, I designed to bring the mediators' views about the non-verbal language I am going to represent with tables the percentage of the information for your reading.

In the field of mediation, as I mentioned before, according to the literature review, it is fundamental for experts in this area to communicate very efficiently; one of their skills is to be excellent negotiators and to have the emotional intelligence to manage conflicts between parties but also what I have explored is how they can develop with the parties in conflict a better relationship through non-verbal language, basically what I argue is that they can learn body language and non-verbal interpretation techniques to improve their mediation sessions and personalise each one of them, then it is essential to identify how from experience itself, the mediation professionals have identified which are the elements that can help to build trust from the first session.

The literature is not specific when it comes to body language in mediation sessions, so what gives us a broader picture is what mediators identify as non-verbal instruments that are more specific, such as some movements of the face, shoulders, arms and legs.

From my data collected through 30 mediators surveyed, each survey with 17 questions, I obtained responses on the topic in general, and they did it through the link sent to them, which contained the form to voluntarily participate in the survey anonymously, as well as a brief description about my project, my school email and in the cases where I sent the link through an email I attached my general data in case some of them wanted to validate my information and student number. (Appendix 2)

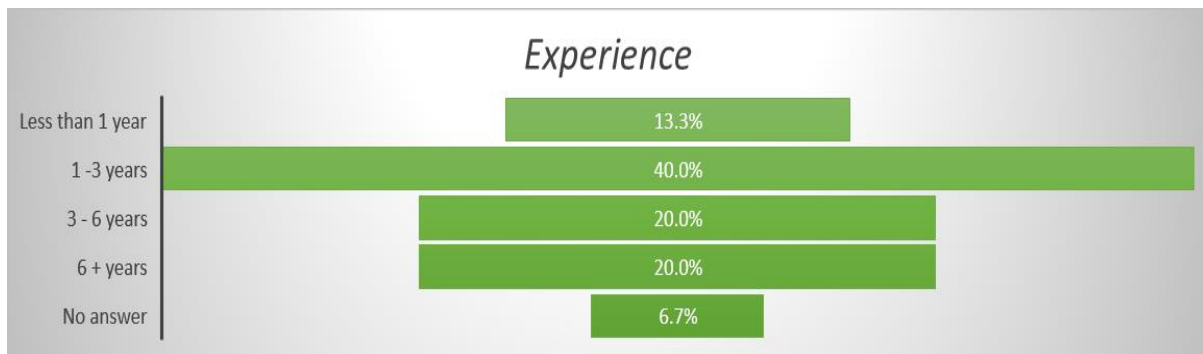
In the first data table, I explain the first variables according to gender and experience of the total of mediators 40% are male, and 60% are female, additionally and according to their expertise in the field of mediation Less than one year 13.3%, 1 -3 years 40.0%, 3 - 6 years 20.0%, 6 + years 20.0%, No answer 6.7% under these conditions we can see that most of them are between 1 and 3 years of experience.

Mediators

Figure 7 Table (Data Analysis)

<i>Total Mediator</i>	<i>Gender</i>	<i>Participants</i>	<i>%</i>	<i>Experience</i>	<i>Participants</i>	<i>%</i>
<i>100%</i>	<i>Male</i>	<i>12</i>	<i>40.0%</i>	<i>Less than 1 year</i>	<i>4</i>	<i>13.3%</i>
<i>30</i>	<i>Female</i>	<i>18</i>	<i>60.0%</i>	<i>1 -3 years</i>	<i>12</i>	<i>40.0%</i>
				<i>3 - 6 years</i>	<i>6</i>	<i>20.0%</i>
				<i>6 + years</i>	<i>6</i>	<i>20.0%</i>
				<i>No answer</i>	<i>2</i>	<i>6.7%</i>
						<i>100.0%</i>

Figure 8 Chart Data Analysis



Non-verbal Communication

For the interpretation of table 2 about non-verbal communication, the questions were closed, 80% of the mediators answered that it is vital, 13.3% somewhat important, in addition to classifying 66.7% as innate and 33.3% as acquired, 100% of the mediators also consider that it is essential to identify non-verbal language, to this question I added a space for them to describe why it is necessary to identify the non-verbal language in mediation sessions, here are 3 of the answers that most caught my attention and that I transcribed directly from the data obtained

1 Knowing the body language or other non-verbal tales allows a mediator to identify hostility, lies, coercion, stress, trie points of settlement negotiation strategies. These allow the mediator to protect persons or know when mediation has failed or it's just their negotiation tactic

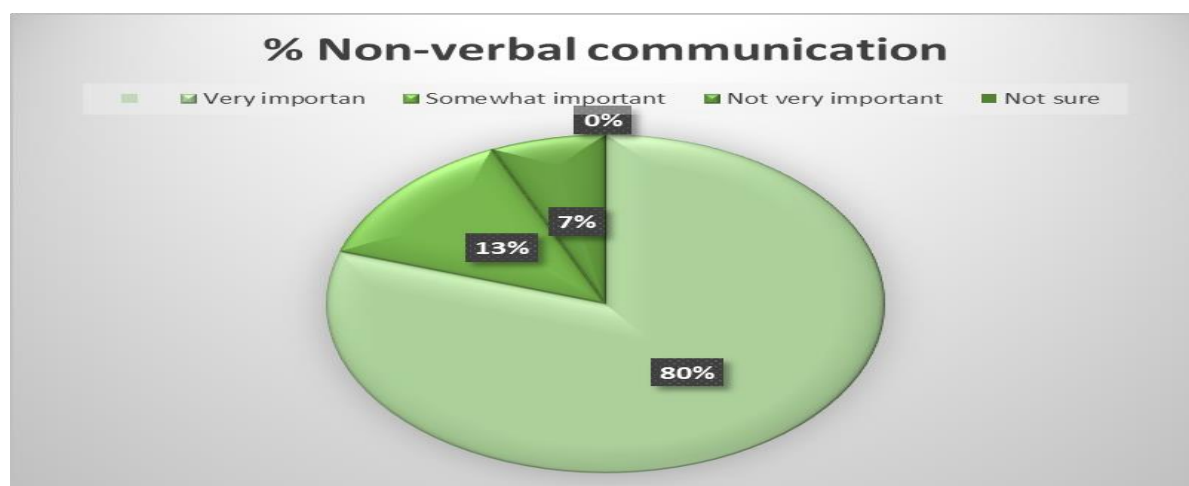
2 Body language can sometimes reveal more about the person and their perspective than what they are saying. With non-verbal communication, it's harder to lie. So not paying attention to it would be a mistake.

3 Body position, facial expression, breath, eye contact all show the inner emotions of someone. Acknowledging that can be a huge part of moving a mediation process forward

Figure 9 Data Table Non-verbal Communication

Non-verbal communication	%	Participants	Acquired or Innate	%	Participants	Identifying non-verbal language
Very importan	80.0%	24	Acquired	33.3%	10	Yes 100 %
Somewhat important	13.3%	4	Innate	66.7%	20	
Not very important	6.7%	2				
Not sure	0.0%	0				

Figure 10 Data Chart Non-verbal communication



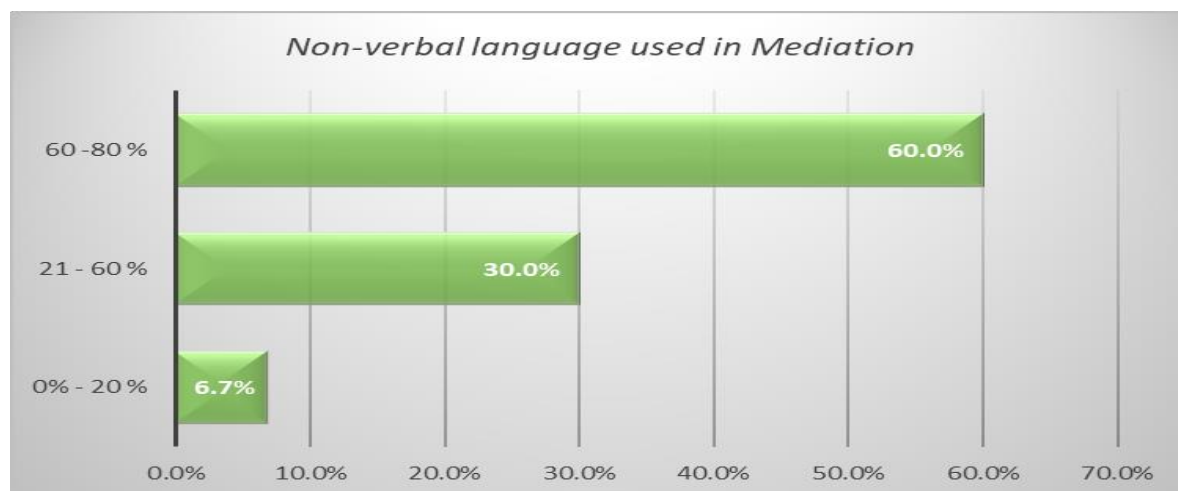
Improvement

For the interpretation of table 3 about non-verbal communication improvement, the mediators identified the percentage of non-verbal language that is used in the mediation session 60 % of them answered that they use between 60 % - 80 %, 30 % of the mediators completed that 21 - 60 % and only two mediators of the sample answered that 0 - 20 %, also 93 % of the mediators answered that the percentage of non-verbal language that is used in the mediation session is between 60 - 80 %, 30 % of the mediators completed that 21 - 60 % and only two mediators of the sample answered that 0 - 20 %, also 93 %. 3 % of the mediators believe that the interpretation of body language should be improved by the mediator, and another question was open for them to mention the signals they detect at the beginning of the mediation session (Eyes Contact, Posture and Gesture).

Figure 11 Table Non-verbal Improvement

Non-verbal language used in Mediation	%	Participants	The Mediator should improve the interpretation of non-verbal language			Non-verbal signals at the beginning of the mediation session
			Yes	%	Participants	
0% - 20 %	6.7%	2	Yes	93.3%	28	Eye contact
21 - 60 %	30.0%	9	No	6.7%	2	Posture
60 - 80 %	60.0%	18				Gesture

Figure 12 Data Chart Non-verbal Improvement



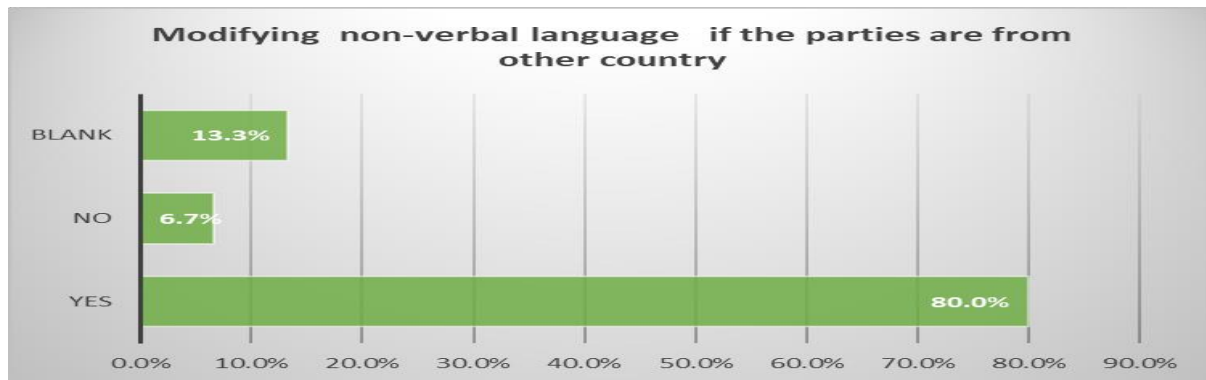
Culture and Gender

For the interpretation of table 4 about non-verbal Culture and Gender, the surveyed measurers mentioned that body language is modified if the parties are from another culture or country 80 % of mediators said yes, 6.7 % said no and 13.3 % left no answer, being an anonymous survey is a limitation because some of them did not answer the question, if they do not have experience with people from other cultures or if they were not sure of their answer, according to the gender answer the percentages change, 66.7 % answered that non-verbal language according to gender does change. In comparison, 26.7 % said no to these questions, I added a blank space to answer based on their experience how they perceive these differences.

Figure 13 Data Table Culture and Gender

Modifying non-verbal language if the parties are from different Country or Culture			Identifying non-verbal language according to the gender of the Parties		
	%	Participants		%	Participants
Yes	80.0%	24	Yes	66.7%	20
No	6.7%	2	No	26.7%	8
Blank	13.3%	4	Blank	6.7%	2

Figure 14 Data Chart Culture and Gender



Cultural Highlight open-ended answers

Here are 3 of the answers that most caught my attention and that I transcribed directly from the data obtained

1 I have noticed Middle Eastern and South American persons seem to move with more hostility, but that's not their intention. Asians seem to get calmer the more upset they are becoming. Americans in various areas have these and other characteristics based on their region. Southerners get more vocal and even curse, which is just normal for them, while Northerners try to use larger words when dealing with Southerners. Californians like to quit at any sign of stalemate, while New Yorkers want to argue from the beginning

2 Indians don't touch, Japanese don't look in the eyes

3. I am in South Africa. We have an extremely wide spectrum of different cultures. In one culture, it would be ok not to look someone in the eyes there as in another; it would show disrespect. It changes from one culture to another.

Gender Highlight open-ended answers

Here are 3 of the answers that most caught my attention and that I transcribed directly from the data obtained

1 Women are often getting more emotional why men get more aggressive (which is the same). Men like to fidget when they are nervous, concerned, scared, etc. While women get quiet and inward-focused. Women will make themselves busy with other things (looking in their purse, digging through papers, etc.) While men tap with fingers or feet and get bouncy in the seat or want to walk around

2 Between male and female parties, there are certain unscripted rules. It is ok for a man to sit open-legged, but a female would be frowned upon for the same position.

3 men are more careful about the space of approach if the mediator is female

The non-verbal language used by mediators

For the interpretation of table 5 about the non-verbal language used by mediators in their sessions, they highlighted that one of the elements they identify is the eye contact ranking in the first place used and accompanied to develop a relationship of trust with more than 40 %, another familiar gesture used by mediators is nodding 30 %, followed by the tone of voice 23.3 %, hand movement and avoiding crossing arms stand out for having the same percentage 13.3 % leaving in last place facial gestures with only 6.7 % without considering that there are 10 % who did not answer, motions should be reinforced as I will mention in the following table.

Figure 15 Data Table Non-Verbal Language Used by Mediators

<i>During the mediation session</i>			<i>To build trust what gestures</i>		
<i>common gestures used by the mediator</i>	<i>%</i>	<i>Participants</i>	<i>usually accompany the non-verbal language</i>	<i>%</i>	<i>Participants</i>
<i>Eye Contact</i>	<i>40.0%</i>	<i>12</i>	<i>Eye Contact</i>	<i>43.3%</i>	<i>13</i>
<i>Hand movements</i>	<i>13.3%</i>	<i>4</i>	<i>Tone of Voice</i>	<i>23.3%</i>	<i>7</i>
<i>Nodding</i>	<i>30.0%</i>	<i>9</i>	<i>Nodding</i>	<i>20.0%</i>	<i>6</i>
<i>Gestures</i>	<i>6.7%</i>	<i>2</i>	<i>Avoid crossing your arms</i>	<i>13.3%</i>	<i>4</i>
<i>No answer</i>	<i>10.0%</i>	<i>3</i>			

For the interpretation of table 6 that I have taken to represent in a table because it called my attention and it is fundamental to mention it because it is directly related to table 5, and it corresponds to the question that I designed to know the point of view of the mediators about which would be the object of study or which is one of the characteristics to develop about the non-verbal language, This result seems important to me because it indicates that they have less experience in facial expressions according to table 5. At the same time in table 6 it stands out as an element of study, and it also indicates which is the element that they know the most and also use in their sessions which is Eye contact and this is shown in table 6 as it has a low percentage as an element of study.

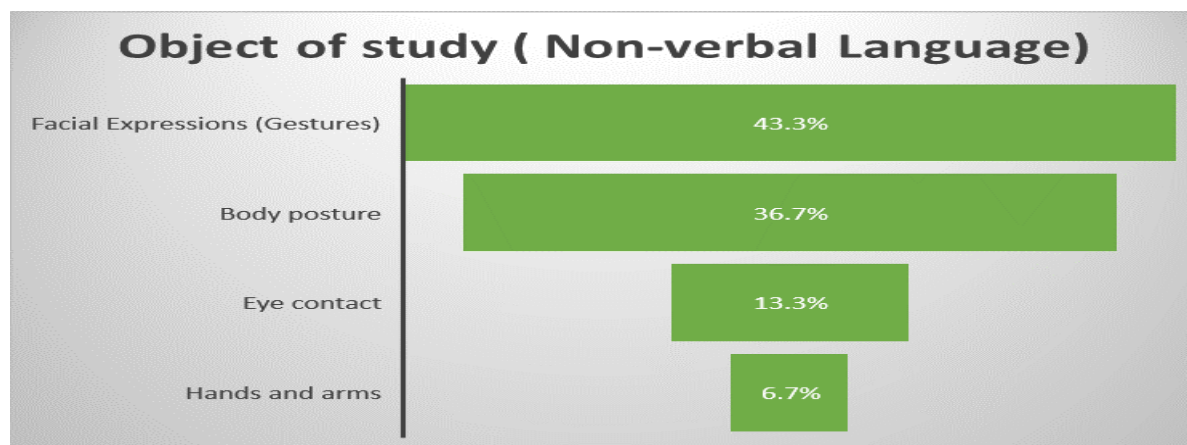
Question

According to your experience in the field of mediation, which personal characteristics could be the object of study within non-verbal language?

Figure 16 Data Table Object of Study Non- verbal Language

<i>Object of study (Non-verbal Language)</i>	<i>%</i>	<i>Participants</i>
<i>Facial Expressions (Gestures)</i>	<i>43.3%</i>	<i>13</i>
<i>Body posture</i>	<i>36.7%</i>	<i>11</i>
<i>Eye contact</i>	<i>13.3%</i>	<i>4</i>
<i>Hands and arms</i>	<i>6.7%</i>	<i>2</i>

Figure 17 Data Chart Object of Study Non- verbal Language



Finally, in order to obtain more explicit evidence and comments from the mediators and their experiences in the field of mediation, I added an open question so that they could express whether it is crucial to identify the non-verbal language of the parties but also the language they use, as the main objective of this research is to be able to support that if they develop this knowledge and training, the mediation sessions can create a more robust atmosphere of credibility and trust with the parties in conflict.

<i>Do you consider that non-verbal language is important in a mediator and the parties?</i>	<i>%</i>	<i>Participants</i>
<i>Yes</i>	<i>100.0%</i>	<i>30</i>

The answers that most caught my attention and that I transcribed directly from the data obtained from the last survey question

Do you consider that non-verbal language is vital in a mediator and the parties?

More the mediator, not the parties, but this allows the mediator to realize what stresses and tone the party is portraying. Knowing their "temperature" allows the mediator to know

when to call a break, end, go to caucus, push, or many other options to find the parties settlement point

2The body must be incorporated within conflict mediation. We hold emotion in our body, and that emotion should be acknowledged.

3Find true meanings and insights of the ideas from the Parties side

4It's important to pay attention to it because it's impossible to not communicate non-verbally since you always send signals with your facial expressions, body language and even with the way you dress.

5You can establish what is not said, What issues there really is and what is common ground

6Find true meanings and insights of the ideas from the Parties side

The application of the quantitative method allowed me to analyse from the mediator's point of view and to be able to identify gender from years of experience working in mediation, as shown in Table 1 of the data analysis; after that, I highlighted how important it was for the mediators to identify non-verbal language and whether they think it is innate or acquired until I got to the descriptions of why they identified that non-verbal language is vital as I explained with an example table 2 of the available answers that attracted my attention, so we arrived at table 3 where we could observe that non-verbal language is used at least 60 % -80 % in the mediation sessions and that 93.3 % of the mediators believe that non-verbal language is used at least in 60 % of the mediation sessions. The segmented responses of the differences between country/culture and gender Table 4 provide unique values and reveal how these characteristics should be taken into account for comparison with other variables and even specialised groups of mediators, In addition to segmenting the data in the questions about the typical gestures that mediators use in mediation sessions, eye contact stands out with more than 40 %, nodding with 30 % and tone of voice 23.3 %, in addition to pointing out in table 5 which of the characteristics of non-verbal language would be the object of study, ranking facial expressions in first place with 43.3 %, followed by posture with 36.7 % In order to define that body language and non-verbal

communication plays a significant role in mediation sessions and that they convey positive or negative messages from both the mediator and the parties and at the same time create empathy in the session and develop a relationship of trust then the study reveals the main objective of the question I have asked myself at the beginning of my Project, and as it highlights the importance of doing more research but also to support mediators with training to develop and promote the study of non-verbal language and body language.

Chapter 5 Discussion

In this chapter is essential to emphasise, as I have mentioned in the previous chapters, that my research addresses how to help the mediator to have more elements to communicate with the parties and to make the mediation session more efficient through the knowledge of reading body language, but also how to generate trust in the parties by speaking from their non-verbal communication, as I demonstrated in the description of the analysis of the data obtained directly from mediators through the quantitative method, these opportunities for improvement can only be reviewed by having the numerical results and understanding the mediators' views and needs, in general terms the survey is the method where we can obtain results and data is obtained systematically through asking questions, accessing and validating the information as one of the most efficient and quickest methods.

For these reasons my intention was to identify how mediators communicate with the parties during the mediation sessions and therefore to highlight the non-verbal communication and if the mediator can through those skills improve his communication during the process, during the data analysis stage the most important thing was to be able to explain from what percentage of non-verbal language is used during the mediation sessions, deepening with detecting the movement of hands, gesturing, making eye contact or nodding can generate a relationship of trust during the communication cycle, as William Ury mentions on page 86 of his book *Getting to Yes* (Ury, 2016) "There is power in developing a good working relationship between the people negotiating" definitely this sentence is focused on how a mediator and the parties should understand each other in their communication cycle as if emotions are

acknowledged and a relationship of trust and respect is generated, even if the parties disagree, the negotiation can flow and be successful for both parties, good communication is a particularly important resource to be able to have a good negotiation.

It is important to note that mediation is an art, and in the literature review, non-verbal communication is the body language that mediators can learn to develop and interpret to ensure that their skills can be enhanced if appropriately studied.

In my exploration of nonverbal language and study of the data, I would highlight how the mediation setting points out the preferences of mediators and what they do during their sessions, how some of them can see great relevance in non-verbal language according to their experience and what are the elements they use to develop an atmosphere of trust and how to communicate better.

As I have described in analysing the data within the mediation environment, the mediators know non-verbal communication and express how they identify non-verbal signals.

Furthermore, as explained in the data analysis chapter, mediators highlight the signs they identify and which elements can be considered most important during the sessions. Mediators also describe its impact if the parties are not from the same culture or country and even how gender is an essential factor when mediating; in this analysis, I must also mention which signs are a key signals part to identify as non-verbal language.

During this stage of discussion, it is also vital for mediators to identify non-verbal language from the beginning and how to communicate effectively by developing the ability to recognise small signals, focusing on the first mediation meeting; the mediator has the opportunity to establish and build a relationship of trust, so mediation courses should include non-verbal communication as a speciality subject because if the mediator is not aware of body signals, he/she will not be able to use these elements to improve the communication cycle on his/her own.

The survey I designed also revealed which personal characteristics could be the object of study within non-verbal language according to the mediators' experience; this information is congruent with what I have found in this study and what the mediators through the survey suggest as points of improvement to create comfort in the sessions.

Based on research like this, the mediator can have more evidence on how to communicate with the parties in specific examples for new mediators with less experience in mediation.

If mediators develop this type of method, they can have various tools to approach each session differently, knowing that they know structured research on gender, culture, non-verbal language cues or different personalities and having a guide like this will be valuable training.

It is also relevant to point out that some of the mediators, based on their experience, find some differences in gender so the mediator can also take actions that help them support their processes better. I have been attracted by some of the open-ended responses which the mediators expose their point of view about the gender of the parties, one of the methods that can be improved such as the tone of voice, friendly but assertive as the tone of voice especially in the parties reveals their emotional state like anger or aggressiveness and these elements impact directly on the mediation sessions, in such a situation the mediator can learn what non-verbal signals to show to keep the atmosphere with less tension, also if the mediator transmits calmness and projects a non-verbal language during the explanation of the process it creates confidence, making it a critical moment, the first impression is not the only moment to build trust but an essential stage for the rest of the sessions to manage the emotions and the collaboration of the parties and avoid a tired and annoying session, so then the mediator through these elements creates the co-operation of the parties even knowing that they are willing to obtain a good negotiation.

Another important point that I have identified is that mediators have mentioned and agreed that the object of study of non-verbal language should be improved. For any research, it should be developed whether it plays an essential role in the mediator's performance regarding the mediation session.

The central theme of the quantitative research fulfils its purpose in having the information and perspective from the mediators' point of view, as I explained at the beginning of my study so that they

can improve a wide range of training on this valuable topic and know that every session is an opportunity to apply the reading of non-verbal language but also this research has served to identify that future projects should be done where the qualitative method can be part of the research in the future.

Conclusion

In this project, I have described how the area of mediation can be achieved by improving non-verbal language through body language; I have examined how the actions of mediators in their field give elements and areas of opportunity to make the processes more effective, the details of the analysis contribute to the explanation of how to connect a valuable instrument of how to read and how to develop a relationship between the parties and the mediator, this topic not only corroborates but also addresses the advantages of being able to improve it.

In the area of mediation and in society itself, it could be used to improve human communication cycles; the data alone shows that there are elements to improve when people conflict.

Furthermore, the quantitative method accredits the research results and broadens a range of elements that can be tools for the field of mediation; the contribution that several authors have put forward summarises that the mediator's approach to the parties in mediation sessions can be built through non-verbal language.

In this sense also the elements that influence the field of mediation is that as non-verbal language is an innate element used by the professional and that it is also predominant in the parties. The mediation process, another significant point is how to recognise the variables about how essential gestures are which are cultural and that their interpretations only belong to the understanding of the country, The subject of body posture has also been highlighted and how important it is to maintain eye contact at the beginning of the sessions as well as to show empathy by nodding. However, it is true that if the situation between the parties has a certain degree of complexity if the mediators modulate their gestures and tone

of voice, the atmosphere that develops will be better conducted by the professional and this study concludes the relevance of non-verbal language.

In an effort to be precise in my research, highlighting the elements of the mediation environment and detecting the correct gap that exists in the mediators' techniques and their instruments which is an indispensable requirement for the interpretation of the data help to enhance the changes that can be made during the process, non-verbal communication is relevant and the ultimate goal has been to find the connection with non-verbal language, the understanding of this project is fundamental to guide the creation of multiple approaches that can ensure the design of further studies from various expert points of view and to mention that under the statistics provided by the study provide considerable data about communication and how the practitioners themselves give a list of elements that should be considered as part of the mediation process, it also offers significant impetus to reflect on what is done today during the sessions and the signs and instruments that should be detected to create a trusting relationship, I personally consider that also the openness of the professionals in giving me data in their own words has made me reflect on their point of view and how they feel in the field of mediation. These descriptions logically influenced this research to take shape and supported me concretely in corroborating my previous research and with this generated credibility in my dissertation, I continue to believe that the introduction stage of the mediator and his or her non-verbal language develops a picture of trust with the parties, I also consider that one of the limitations of my research was not being able to interview them in person and reduce it to online surveys, the graphs convey the results and can provide guidelines for the study of my topic, however I consider that the sample can be significantly expanded in other specific areas such as workplace, business, family or construction to obtain a more accurate picture in order to be able to compare different areas with the mediators' points of view, I also consider that the study is only based on the perspective of some mediators, but what if it could be seen from another approach for example in diversity of continents, I consider that it would be a significant advance for our area, but also in other areas to increase its effectiveness.

Reflection

The impact of how to develop the process through data collection strengthens the mediators' position on the basis of their experience and skills in non-verbal communication, as mentioned in the literature review and Alternative Dispute Resolution concepts, is not only verbal language supports the mediators' communication, the position that non-verbal language has promotes the development of its reading in a scientific way through the authors' theories, as well as the improvement of the relationship of trustworthiness between the parties and the mediator is attributed to the contribution of non-verbal language, although in this research the qualitative method has not been applied, it can give a picture of how comprehensive the improvement in the field of mediation could be, however without the guidance of the authors who have spent years researching the subject, it is clear that they can be expanded to support mediators and contribute to the extensive knowledge of the issue, in general terms mediators already have many necessary skills and there is no doubt that they can connect with one more tool that will facilitate their work.

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Appendix

Survey

Survey the Body Language in Alternative Dispute Resolution

1. Are you a Mediator?

Yes No

2 What is your gender?

Male Female

3 How many years of experience do you have in the field of mediation?

Less than 1 year

1 -3 years

3 - 6 years

6 + years

No answer

4 In terms of mediation, non-verbal communication is:

Very important

Somewhat important

Not very important

Not sure

5According to your personal and professional experience, do you consider non-verbal language to be acquired or innate?

Acquired

Innate

6 Do you consider that non-verbal language is important to identify for the mediator?

If your answer above is Yes, Why?

7 From your perspective, what percentage of non-verbal language is used in a mediation process?

0% - 20 %

21 - 60 %

60 -80 %

8 Do you consider that a mediator should improve the interpretation of non-verbal language during the process?

Yes

No

9 Do you identify certain non-verbal signals such as gestures or movements at the beginning of the mediation session? please could you write 3

10 In a mediation process, when the parties come from another Country or Culture, are you aware of modifying any specific gesture in your register of non-verbal language?

Yes

No

if your answer above is Yes, Why?

11 During the mediation process, do you identify non-verbal language according to the gender of the Parties?

Yes

No

if your answer above is Yes, Why?

12 During the mediation session, what are the most common gestures you use with the Parties?

Eye Contact

Hand movements

Nodding

Gestures

13 To build trust in the mediators and mediation process itself, what gestures usually accompany your non-verbal language?

Eye Contact

Tone of Voice

Nodding

Avoid crossing your arms

14 What gestures would you highlight from your communicative style during mediation?

15 When, in the mediation process, the Parties are in a tense phase, what gestures predominate in yourself?

16 According to your experience in the field of mediation, which personal characteristics could be the object of study within non-verbal language?

Facial Expressions (Gestures)

Body posture

Eye contact

Hands and arms

17 Do you consider that non-verbal language is important in a mediator and the parties? If your answer above is Yes, Why?

Email for Survey

Email to have my data

Good morning, I hope you are well!

My name is Monica Ramos a student of the Master of Arts in Alternative Dispute Resolution Level 9 based in Dublin Ireland, I would be very grateful if as a professional in the field of mediation you could answer this short survey as part of my Master's project at Independent College Ireland, the data will help me to further my research and the relevance of identifying as a mediator the non-verbal language (body language) in dispute resolution and the mediation process.

Link

Thank you very much for your help and do not hesitate to contact me with any questions through my email address.

Kind Regards

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