

Role of a Mediator on Conflict Resolution- A Buddhist Based Strategies for Effective Mediation

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Introduction

As mentioned in Oxford Dictionary (2017) a conflict could be meant: A serious disagreement or argument, typically a protracted one. A prolonged armed struggle. A state of mind in which a person experiences a clash of opposing feelings or needs. A serious incompatibility between two or more opinions, principles, or interest. However, the traditional way of court litigations does not truly address the complexity of some of these disputes. It requires a process for resolving these disputes through an independent mechanism which involves an independent and impartial third party with expertise knowledge. These processes are recognized as Alternative Dispute Resolution methods (ADR) such as Arbitration, Mediation, Conciliation and Negotiation. Mediation is treated as a mechanism which facilitate a discussion between disputed parties and resolve the matter at the earliest stage with the support of a third party name 'Mediator'. It can be known as an "amicable settlement". Mediator do not help to reach a final decision rather help the parties to reach their own decision. 'Hatred never ceases by hatred but by love is healed'- Lord Buddha. Hence this study proposes some improvements to the process by getting guidance from Buddhists teachings.

Purpose & Background

The problem this study seeks to address is how to maximize the credibility of the mediation process with respect to the behaviour of the mediator. The literature based review has revealed the necessity of moderating the process. Discuss the possibilities of getting guidance from Buddhists teaching to propose a solid foundation for the understanding of conflict with reference to the Nobel Truth and a framework based on concepts of non-violence, compassion, wisdom, empathy and benevolence is the objective of this study. Hence this study seeks to establish a discussion on Buddhist strategies for an effective mediation.

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Methodology

This study is based on normative research involves two resources, journal articles as primary source and study on the practice of law was used.

Findings/Results

The process of mediation is much more similar with the Lord Buddha's intervention as a mediator into the dispute regarding the ownership of a jeweled throne in Nagadeepa. Lord Buddha gave an opportunity to both parties to discuss about the matter and find a solution. Lord Buddha as the mediator was success in this as both parties came in to a joint agreement to hand over the custody of the throne to Naaga king of Kelaniya. The threat to enter in to a war was successfully prevented.

The problem involved with mediation is parties can simply ignore the solution proposed by the mediator if they are not satisfied with it. Though it not says solutions proposed are always useless. If the process consists with pre requisites of a healthy mediation process it would possibly effective. The conflict resolution skills belong to the mediator who deals with the process would be the reason of a successful outcome. Therefore, this study proposes some lessons of Buddhist teachings like the way of understanding a conflict, using concepts like nonviolence, wisdom and empathy as relevant frameworks which would be used as a guideline for a mediator.

- A better application of Buddhist Nobel Truth for the understanding of the conflict will guide the process into a fair decision.
- The outcome of any conflict is recognize as 'Suffering' (dukkha ārya satya)
- Clinginess on persons, objects or material procession leads us to a level of 'carving' be the reason (root) for a conflict (dukkha samudaya ārya satya)
- Approach in to a conclusion of the conflict (dukkha nirodha ārya satya)
- A discussion uses between disputed parties as a method which facilitate a mutual understand (dukkha nirodha gāmini patipadā ārya satya)

Further, practicing Buddhist virtues would be enhancing the credibility of the process. Tophoff, (2016, p.466) states... These virtues include the practice of non-violence, compassion, wisdom, empathy and benevolence. Deeply understanding these virtues so that they become part of the mediator's mindset, allows her to pass them on to the clients, by example and by pointing out their

relevance for the process of reconciliation of their conflict. Practicing these Buddhist virtues will not only help to cool down high levels of negative, and potentially destructive emotions. Cultivating these virtues is instrumental for the development of feelings of friendliness, agreeableness and loving kindness – and these are essential ingredients when we wish to build a solid and stable basis for effective conflict reconciliation.

Nonviolence will guide in preventing harm against parties while compassion will ensure the empathy, respect and appreciativeness between parties. Wisdom will guide the mediator insight into the Four Noble Truths, the insight in the reality of suffering (background of the actual conflict). Wisdom can recognize as a result of practicing compassion. Tophoff, (2016, p.466) states... Compassion must be communicated ‘skillfully’ to the clients, which means that the communication, guided by empathy, must be tailored specifically to the needs of the other party. Notwithstanding that benevolence (kindness) would be a good practice to a mediator when he maintains calmness between parties.

It can be said that the above Buddhists teachings would be a great guidance to solve a conflict in early stages without step in to next levels.

Conclusion

This research proposes a Buddhist based strategical framework with some levels which a mediator can follow to handle the process wisely.

Level 1:

Study perspectives of disputed persons separately with reference to the Buddhist teachings of ‘I’ and ‘You’

Level 2:

Study the background of the conflict or the dispute with reference to the Buddhists teachings of the Nobel Truth before start the process

Level 3:

Use above mentioned Buddhist teachings such as non-violence, compassion, wisdom, empathy and benevolence during the process and maintain the calmness between parties.

Level 4:

Affirm and collaborate peace by ensuring an “amicable settlement”.

Buddhist teaching can gradually develop high standard of mindfulness which facilitate to bring out a farsighted solution from the mediator. It would ensure