

Hybrid online mediation in hierarchical labor disputes

By Katalien Bollen [author]

One of the ways to implement online tools in mediation processes is the use of an online tool in order to prepare the subsequent traditional face-to-face mediation. Looking at mediation in hierarchical labor disputes, we are specifically interested in 'how' and 'to what extent' subordinates' and supervisors' perceptions and experiences are affected by the use of such an online intake tool. .

Trends in labor disputes

More and more organizations are confronted with the potential negative consequences of conflicts (high costs, absence, bad atmosphere, reduced productivity). This explains why currently they show more interest in constructive ways to prevent as well as to resolve conflicts (Deutsch *et al.*, 2006). Consequently, interest in mediation as a process in which the disputants use an external party to find a win-win solution increases. At the same time, we also witness an enormous increase in the use of online tools in the provision of Alternative Dispute Resolution. Next to mediations which are conducted totally online, you can also find hybrid types in which online tools are used as an add-on to traditional face-to-face mediation. Up to now, there were no clear indicators to show how the use of hybrid online tools affects the experiences of the parties involved. Based on data received from several mediation services providers and their clients, we tried to answer this question.

Outline: Practical example of hybrid online mediation in labor disputes

In 2007 Juripax (www.juripax.com) launched an Internet application¹ to facilitate the prevention and resolution of employment and labor conflicts. In close co-operation with a number of mediation providers, a pilot was initiated. In this specific case, parties were given a set of questions to answer online (online intake) before meeting face-to-face mediation (an example of a hybrid type of online mediation). Participation in pre-mediation by filling in an online intake was obligatory, unless one of the parties did not have private access to e-mail and/or no or limited access to a computer or the Internet. As soon as both parties completed the online intake, their answers were sent to the mediator and appointments were made for the face-to-face mediation. It is clear that communication is asynchronous and textual: questions can be answered independent from location and time, without the need for the other participants to be online at the same time.

A(n) user feedback questionnaire was designed by the University of Leuven. Upon completion of the mediation, parties received an e-mail with link to the questionnaire. The questionnaire contained questions related to: degree of well-being after the mediation, satisfaction about the mediation

¹ To review the functionality and working of Juripax online tools, see <https://roleplay.juripax.com/php/wizard/start.php?action=roleplay&lgset=en>

(both the outcome and the process), the degree of uncertainty with regard to the mediation process, trust in the mediator and the degree of (procedural) justice. Participation in the study was voluntary and confidential.

The standard procedure contains the following steps:

Step 1: The case manager selects suitable cases and contacts the parties (e.g. supervisor and subordinate) involved in the dispute. He/she explains the procedure and asks for the key (contact) information required to set up the online communication.

Step 2: The case manager sets up a digital file and the system invites the participants via e-mail to take part in the procedure. Participants are asked to register and to fill out an intake questionnaire. The content of the online intake is based on: (a) best practices (practical experience), (b) scientific research and (c) the relevant legal context prevalent in those kinds of disputes. Some sample questions: What is the dispute about? What steps have you already taken to solve the conflict? What are possible solutions? What are your alternatives if mediation does not solve the conflict?

Step 3: Once both the parties submit their respective online forms, a mediator is assigned to review the input prior to the first mediation session with parties.

Thanks to the online intake, all participants, including the mediator, gain more insight into the positions and underlying interests. Also, it provides structure and guidance as important issues are discussed. Additionally, thanks to the questions, parties are invited to reflect upon substantive issues. Finally, parties also receive relevant information during the online intake helping them to make informed decisions about realistic next steps.

Besides being effective, the use of an online intake may also considerably enhance the efficiency of mediation: It might save time and money as people can simply fill in the intake at home. For many companies, the (supposed) efficiency of an online tool is often one of the most important reasons to implement online intakes. Based on the experiences of companies working with an online intake such as Result Mediation Centre and Medrecht, the online preparation saves 30% to 40% in time and money (compared to the average length of a face-to-face procedure in labour disputes)

In order to be able to determine the effects of the incorporation of an online tool, this study included face-to-face mediations as well as mediations in which an online intake had been incorporated dealing with hierarchical labor conflicts (dispute between employer and employee or between supervisor and subordinate).

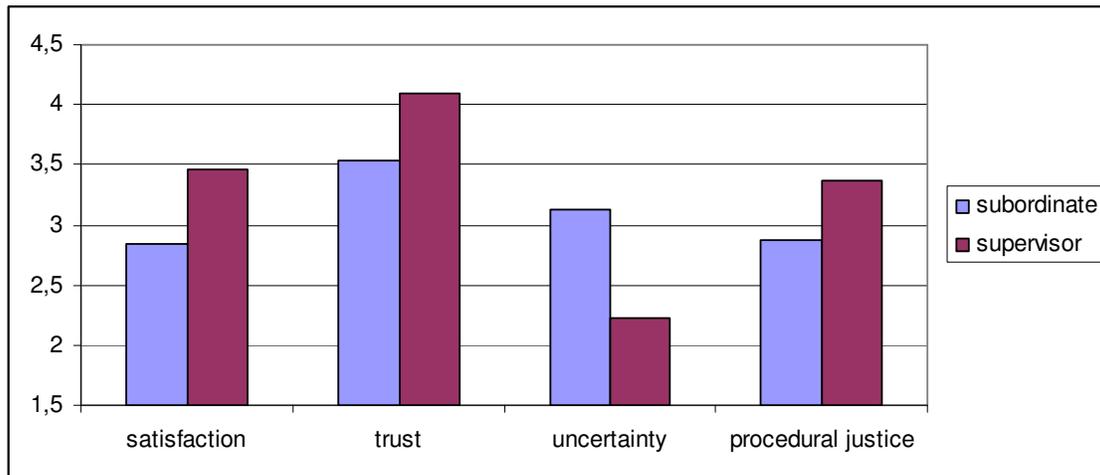
Hierarchical labor disputes

Most labor disputes can be characterized as hierarchical disputes, the disputants occupy different hierarchical levels at work: e.g. a conflict between a team leader and team member or a subordinate and a supervisor.

Research already indicated that the hierarchical position one occupies, has a major impact on thoughts, emotions as well as behaviour (Anderson and Berdahl, 2002; Fitness, 2000). For instance, when involved in conflict, supervisors tend to force and/or confront the less powerful in an attempt to find a solution for the conflict. Less powerful disputants in contrast, tend to avoid the situation (Fitness, 2000; Van de Vliert, Euwema and Huismans, 1995). These findings are in line with the “approach/inhibition” theory by Keltner and his colleagues. This theory states that less powerful individuals feel restricted in their behaviour, which means they will do little to nothing when confronted with a difficult situation, whereas more powerful individuals will feel free to do as they wish. This has a lot to do with the fact that more powerful people, compared to less powerful individuals, possess more ‘means of power’, such as money, knowledge, institutional and/or social support. Given these findings, it is logical to assume that supervisors and subordinates experience conflict differently. Likewise, Fitness (2000) found that supervisors often feel satisfied considering the conflict as ‘solved’, whereas subordinates often feel unsatisfied considering the conflict as unresolved often bearing a grudge against the powerful supervisor. This also implies that hierarchical conflict can often be described as an asymmetrical conflict: The less powerful individual usually experiences more conflict than the more powerful individual (Jehn, Rupert & Nauta, 2010).

Considering these findings, it is very likely that supervisors and subordinates will also experience and/or evaluate mediation differently. Earlier research by Bollen and colleagues shows that in hierarchical face-to-face labor mediation, supervisors experience and evaluate the mediation more positively than subordinates do. Specifically data show that in comparison with subordinates, supervisors feel on average more satisfied with the mediation, have more trust in the mediator, experience more (procedural) justice, feel less insecure and experience less health problems. These results are also shown in the following Figure and are based on data of 49 fully completed questionnaires of 100 participants (23 supervisors and 26 subordinates) involved in a face-to-face mediation.

Figure - the perceptions of subordinates and supervisors on several research variables in a face-to-face setting



These results seem to correspond with earlier findings within the context of conflicts, namely that compared to subordinates, supervisors feel more satisfied about the result(s) of the conflict and seem to be less influenced by the possible negative consequences of conflict (Fitness, 2000). A possible explanation for these results could be that, compared to powerful individuals, less powerful individuals tend to take into account more the behaviour of the powerful and are influenced by it to a bigger extent than the other way around (Van Kleef, De Dreu, & Manstead, 2004). In sum, data show that also in mediation perceptions are coloured by the hierarchical position disputants occupy and that supervisors are usually better off.

Effects of the use of online intake or pre-caucus

Conflicts are inextricably linked to negative emotions and often to (impulsive) recriminations. For most disputants it is hard at that moment to have a constructive conversation. Although both parties need mutual understanding and recognition, they are often not capable to provide this to each other. In general, a mediator tries to meet these demands by creating a setting in which there is room for open and respectful communication. When conflict are highly escalated, mediators often decide to caucus (a private discussion between the mediator and each conflict party separately). During these private conversations with the mediator, disputants can talk freely about their concerns as the other party is not present. Additionally, the mediator may ask questions which might be hard to answer in the presence of the other party. Given the fact that parties' concerns and emotions are listened to and recognized by the mediator, parties may feel relieved and able to focus on the content looking for a win-win solution.

Up to a certain degree, an online intake can be compared to a pre-caucus (a caucus before the mediation takes place). In the online intake, parties can safely share their concerns with the mediators, without any external pressure of the other party. The specific questions, which are incorporated in the online intake, stimulate both the parties and the mediator to search for the essence of the conflict. Thanks to the questions parties are invited to think about the conflict, the

progress of the conflict, their own position in the conflict and possible solutions and/or alternatives. Additionally, the nature of the questions does not only help the parties to make a well-considered assessment with regard to realistic next steps and alternatives, but also contributes to an effective mediation: Parties are actually strengthened or supported to take the conflict and the solution in their own hands.

The asynchronous character of the communication offers the opportunity to reflect upon the content of the answers. This also implies that there will be less impulsive negative or uncontrolled comments towards each other (Pesendorfer & Koeszegi, 2006). Another advantage may be that parties are invited to reflect upon certain things, so that they are better prepared for the subsequent mediation. Without such preparation, it may happen that parties are unable to formulate an answer to certain (difficult) questions.

Especially for those individuals who find it difficult to express themselves face-to-face, the use of an online intake may create a stronger feeling of control and subjective safety because of the extended time to reflect and the absence of the other party (McKenna & Bargh, 1999). Confronted with hierarchical labor conflicts, this assumes that especially subordinates might experience the advantage(s) of the use of an online intake tool. Given the fact that in their interaction with supervisors, subordinates tend to avoid and/or to give in, reflects that they do not feel free to behave as they would like to. This is not strange given the fact that subordinates are (partly) dependent on the 'goodwill' of their superiors to get rewarded or punished. When using an online intake, subordinates' answers are in a first stance only shared with the mediator. This situation may give more space to a subordinates to express freely perceived frustrations, emotions and concerns. For supervisors, on the other hand, the use of such a tool might create a perception of restricted power.

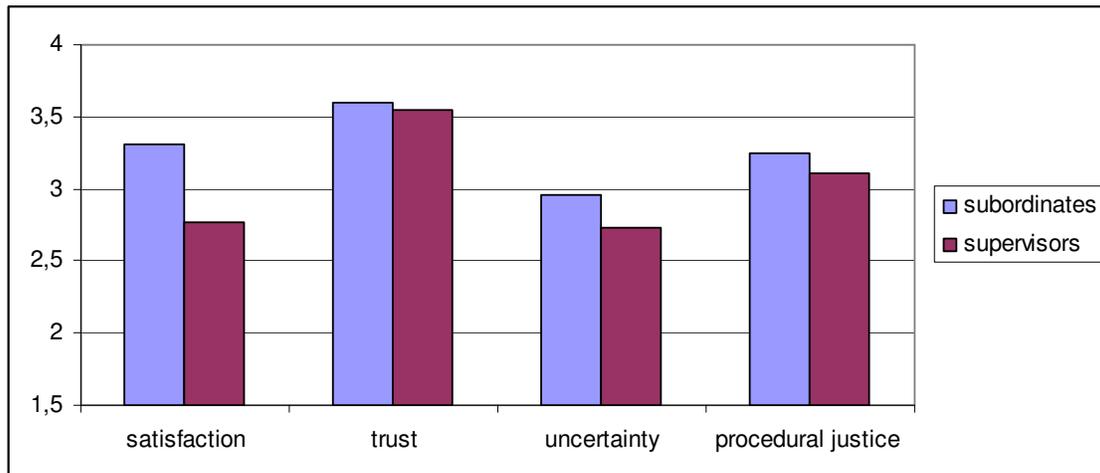
As a result, we assume that the use of an online intake tool is able to level the differences between supervisors and subordinates which are present in face-to-face mediation.

Results

Also here, the same procedure as in the face-to-face mediations has been applied, the only difference being that parties filled out an online intake before taking part in the mediation.

If we compare the results of the online intake condition with the earlier results obtained from the face-to-face mediations, we can see that the differences between supervisors and subordinates which are present in face-to-face mediations, disappear when an online intake is used. Although differences still can be observed, they are statistically not relevant. It is important however, to mention that in this study only a pilot of 17 respondents were incorporated.

Figure - the perceptions of subordinates and supervisors on several research variables when an online intake tool is used.



These results in the online condition show that the perceptions of the supervisor and subordinate do not (or hardly) differ with regard to satisfaction about the mediation, the trust in the mediator, health problems and the perceived uncertainty and (procedural) justice.

Discussion and implications

These results show that the use of an online intake may make supervisors and subordinates more equal when it comes to their perceptions and experience of the mediation.

Where supervisors and subordinates differ greatly in face-to-face mediations with regard to a number of perceptions, this difference seem to disappear when an online intake is used. This also adds to mediation effectiveness to reach a win-win solution. In contrast to face-to-face mediations, the use of an online intake makes the distinction between powerful and powerless less clear.

The attentive reader, however, will notice that these results have important implications.

Although we can no longer speak of differences between superiors and subordinates when an online intake tool is used, a certain trend in the data can be observed: whereas subordinates' perceptions and are more positive (more satisfaction, more trust in the mediator, less uncertainty etc.) compared to the ones in face-to-face mediations, they are more negative for supervisors (less satisfaction, less trust in the mediator, more health problems etc.). This may also imply that the use of an online intake especially benefits the subordinates. This is in line with our hypothesis. An explanation can be found in the fact that when people are asked specific questions in an online intake, they have time to (re)-think their own situation, do not experience external pressures as no-one else is present which may enhance a feeling of control and subjective safety. The fact that both parties are subjected to a similar 'procedure' (filling out an online intake with similar questions) may give subordinates a (larger) perception of justice. For supervisors, on the other hand, the use of such an online tool can create the perception that their powers are (partly) being restricted.

In daily interactions between subordinates and supervisors, power is often reflected in both verbal and non-verbal behavior. The fact that disputants can no longer see or hear each other, may eliminate this potential source of power.

Conclusion

This study focused on the effects of the use of an automated intake on the experiences and perceptions of superiors and subordinates involved in a mediation dealing with a labor dispute. The first results of this pilot study with regard to hybrid online communication are hopeful, as they show that an online intake may create a more constructive climate, in which power imbalances are less prominent present or even eliminated. Still, we have to exercise some caution, as especially the less powerful or subordinates seem to profit from the positive effects of an online intake. In addition, results show that the use of an online intake might lower parties' resistance to look for a solution of the conflict, as parties do not have to face each other immediately. The fact that parties are invited to reflect about a lot of issues before the mediation starts, may contribute to the mediation effectiveness as well as parties' satisfaction.

Although these preliminary results are hopeful, more research is needed to confirm the effectiveness of the use of an online intake when mediating. Additional research is ongoing and include face-to-face mediations, mediations in which an online intake has been used and mediations which are completely conducted online.

About the author

Katalien Bollen (Katalien.Bollen@psy.kuleuven.be) has been working for the research unit Labor, Organizational and Personnel (Human Resource) Psychology of the University of Leuven since 2007. Currently, she is working on a dissertation on 'Mediation in hierarchical labor disputes', focussing on the role of power, emotions and the use of online tools during the mediation. She is also a registered mediator.

References

Books

Deutsch, M., Coleman, P. T., & Marcus, E. C., The handbook of conflict resolution: Theory and practice, San Francisco: Jossey-Bass (2006).

Keltner, D., Van Kleef, G. A., Chen, S., & Kraus, M., W. (2003). A reciprocal influence model of social power: Emerging principles and lines of inquiry. In L. Berkowitz & Zanna (Eds.), Advances in experimental social psychology.

Journals

Anderson, C., & Berdahl, J. L., 'The experience of power: Examining the effects of power on approach and inhibition tendencies', *Journal of Personality and Social Psychology*, 83(6), (2002), p. 1362-1377.

Fitness, J., 'Anger in the workplace: An emotion script approach to anger episodes between workers and their superiors, co-workers and subordinates', *Journal of Organizational Behavior*, 21(2), (2000), 147-162.

Jehn, K. A., Rupert, J., Nauta, A., & Van Den Bossche, S. (2010). Crooked conflicts: The effects of conflict asymmetry in mediation. *Negotiation and Conflict Management Research*, 3(4), 338-357.

McKenna, K. Y. A., & Bargh, J. A., 'Causes and consequences of social interaction on the internet: A conceptual framework', *Media Psychology*, 1(3), (1999), p. 249 -269.

Pesendorfer, E.-M., & Koeszegi, S., 'Hot versus cool behavioural styles in electronic negotiations: The impact of communication mode', *Group Decision and Negotiation*, 15(2), (2006), p. 141-155.

Van de Vliert, E., Euwema, M. C., & Huisman, S., E., 'Managing conflict with a subordinate or a superior: effectiveness of conglomerated behavior', *Journal of Applied Psychology*, 80(2), (1995), p. 271-281.

Van Kleef, G. A., De Dreu, C. K. W., & Manstead, A. S. R. (2004). 'The interpersonal effects of emotions in negotiations: A motivated information processing approach', *Journal of Personality and Social Psychology*, 87(4), (2004), p. 510-528.