

Master in Learning and Communication in Multilingual and  
Multicultural Contexts

Cover Page

**A Case Study : Neutrality Posture of the Mediator in  
Inter-Cultural Mediation**

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Raginee POLOOGADOO

January 2020.

## **Declaration**

I hereby declare that the thesis entitled “ A Case Study: Neutrality Posture of the Mediator in Inter-cultural Mediation” has been carried out in the Master in Learning and Communication in Multilingual and Multicultural contexts, at the University of Luxembourg, under the guidance of Associate Professor Ingrid de Saint Georges. The work is original and has not been submitted in part or full for any degree or diploma at any other University.

I further declare that the material obtained from other sources has been duly acknowledged in the thesis.

Marnach, Luxembourg.

Date: 10. January 2020

Raginee Poloogadoo

Le Pont written by Claudio Magris.

This poem captures well the semantic richness of the bridge in intercultural mediation.

### **Le Pont....**

*Le pont est une frontière, avec la grâce et la malédiction de la frontière, où il arrive quelquefois qu'on ait des ailes plus grandes, mais coupées. Les gens d'une rive sont plein de préjugés à l'égard de ceux de la rive opposée, alors qu'eux-mêmes paraissent à ces derniers souvent barbares et dangereux. Mais si on commence à aller et venir d'un bout à l'autre du pont, à aller d'une rive à l'autre jusqu'à ne plus bien savoir de quel côté on se trouve ni dans quel pays on est, on redevient bienveillant envers soi-même, et le monde nous plaît.*

*By Claudio Magris*

# **A case study: Neutrality posture of the mediator in intercultural mediation**

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## **ABSTRACT**

Mediation is becoming a more peaceful and internationally accepted solution for solving conflicts. It is a dynamic and interactive process where a neutral third party that is the mediator assists disputing parties in resolving conflict. Normally, there is an assumption that the mediator will remain neutral. This thesis explores the neutrality posture of the mediator when dealing with inter-cultural mediation. The purpose of this qualitative study was to investigate the understanding and implementation of neutrality of the inter-cultural mediator at practice. The research questions focused on mediator's perceptions, interpretations, conceptions, implementation and effectiveness of the neutrality posture at mediation. Ten face to face semi structured interviews were conducted with intercultural mediators hailing from diverse geographical locations. Data were coded and analyzed through thematic analysis. The findings of the study revealed that inter-cultural mediators have different views of the neutrality in mediation. Moreover, they adopt the meaning and posture of neutrality according to their self-determination at practice. An alternative discourse for this study should be to frame a standard meaning to the term of neutrality by giving its absolute significance in mediation.

Keywords: Inter-cultural, mediation, neutrality, posture, mediator, views, meanings, practice

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# **A case study: Neutrality posture of the mediator in Inter-cultural Mediation**

## **1. INTRODUCTION**

Mediation is a dynamical, structured, interactive process wherein a neutral third individual that is a mediator assist disputing parties in solving conflict to reach a fair settlement. Mediation as practiced is in diverse fields such as civil, commercial, penal and cultural. It consists in solving conflict using specialized communication and negotiation techniques in order to reach an accord between the opponent parties. Normally, there is an assumption that the mediator will remain neutral. This thesis explores what happens to this neutrality posture when dealing with cultural mediation or inter-cultural mediation (the two terms use in different geographical location). When stating cultural or intercultural mediation more specifically it is a conflicting situation wherein two or multiple parties' hail from diverse cultural backgrounds. My interest in this subject is because by profession, I am an accredited mediator in civil, commercial and penal matters. I belong to a multicultural background and at instances when participating in situations with multicultural mediations, the question of maintaining the neutrality posture arose.

### **1.1 Who is a mediator?**

Due to heavy court caseloads and the rising costs, disputant parties often opt to resolve their disputes outside the courtroom through a known process called mediation. A mediator, unlike a lawyer, does not represent any of the litigants or parties in legal disputes. When the parties have a dispute and wish to avoid the legal complexities of a lawsuit, they take recourse to a mediator's services. Such is in order to assist them to find a fair solution The online business dictionary defines a mediator as "unbiased third party that mediates situations between two or more parties having as job to look at all

facts involved in the situation and make suggestions with the goal of reaching an amicable decision.”

In Western traditions, like judges, mediators are outsider-neutrals that is they are persons with no association to the conflict or opposing parties. They differ from insider-partials, lawyers, facilitators with an in-depth know-how of parties to a conflict (Dyck, 2000, pp. 130-3; Gadlin & Pino, 1997, p. 18). In contrast, the non-western cultures do not bear the same characteristics. For instance, according to Kelly (2008, pp 202-203) in a mediation process in the indigenous communities like in Australia the “best” mediator may be a person connected to the parties and dispute. In other cultures, for example in India, elders were qualified as mediators generally because of their existing knowledge of the specific dispute and their interest in assisting in the resolution so that individuals or a group (tribe, community, and village) will all benefit. Such a practice is the so-called “Panchayat” in India meaning the assembly of conflict solvers. It is to be conjured that mediator can alter a conflict dynamic in five significant ways. For instance, changing the structure of the interaction, bringing an approach to the mediation through their personal commitment, vision, and humanity to the interaction with a set of values and ethics (Mayer, 2000 pp.273-4).

## **1.2 How to become a mediator in Luxembourg?**

Each country where mediation is present in its constitution have their own specific requirements for the accreditation. Being a resident of Luxembourg and having done my training to become a mediator in this country, I registered as an accredited mediator in the registry of accredited mediators at the Ministry of Justice in 2016. The Ministry of Justice in Luxembourg is responsible for approving mediators. In civil and commercial matters, mediators do not need approval to provide mediation by agreement. According to the Luxembourgian Law any natural person may apply for approval if he or she fulfils the conditions set out by the Act of 24 February 2012. These conditions are integrated in mediation for civil and commercial matters into the New

Code of Civil Procedure and are established in the Grand-Ducal Regulation of 25 June 2012. It also determines the approval procedure for mediators for the purposes of court-referred and family mediation. Under Directive 2008/52/EC and Article 1251-1 (1) subparagraph 3 of the Act of 24 February 2012 on mediation, mediators who meet equivalent or essentially comparable requirements in another Member State of the European Union are exempt from approval in the Grand Duchy of Luxembourg. The approval is for an indefinite period.

Article 1251-3(2) of the New Code of Civil Procedure and the Grand-Ducal Regulation of 25 June 2012 referred to above set out the conditions must all be met by natural persons wishing to obtain approval. They must provide guarantees of good repute, competence, training, independence and impartiality. In addition they must produce an extract from the Luxembourg police records; such is known as the “character certificate” (Casier Judiciaire) or a similar document issued by the competent authorities in the country of residence where they have resided for the past five years bearing no criminal records. They must enjoy civil rights and be entitled to exercise political rights.

Finally, they must have specific training in mediation in the form of a master’s degree in mediation awarded by the University of Luxembourg or a university, a higher education institution or another establishment offering the same level of training. It is ordained in accordance with the laws, regulations or administrative provisions of a Member State of the European Union. Moreover, three years’ professional experience is supplemented by specific training in mediation as per Article 2 of the Grand Ducal Regulation of 25 June 2012 is required; or training in mediation recognized by a Member State of the European Union. Since seventh of August 2012 until 15<sup>th</sup> of February 2019, the list of accredited mediators registered in civil and commercial matters at the Ministry of Justice of Luxembourg counts 100 accredited mediators<sup>1</sup>.

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<sup>1</sup> <http://mj.public.lu>

## **2. BACKGROUND FOR RESEARCH**

By birth, I am Mauritian. I hail from a multicultural background. Since the tender age, I learned the various cultures present in Mauritius. Mauritius is an island formed by volcanic activity in the Indian Ocean. Its discovery was in 1638 and has a population of approximately 1.2 million. The Mauritian population comprises of descendants' migrants and former slaves, which are of different ethnic groups such as Hindus, Muslims, Chinese and Christians. Notwithstanding, of the presence of so many ethnicities and cultures, the citizens of the Republic of Mauritius live in harmony. Such cultural diversity in addition to its geographic isolation with time led to a nationalized sense of pride. After my tertiary studies in UK, I moved to Luxembourg in 2012 and since have been a resident for a couple of years now. I have seen the evolution of the growth of the population and increase number of cultures consequently.

### **2.1 Luxembourg Multiculturalism**

According to the STATEC, World Bank, Luxembourg has the highest annual population growth rate (2.05%) among all European countries. In 2015, 249,325 migrants lived in Luxembourg. These consists of all residents living permanently in the country but were born in another country. The amount includes granted refugees but no asylum seekers (Censuses, United Nations Population Division). In 2018, the number of foreign population raised to 288, 234, annex a table view (STATEC/ CTIE 19/04/2018). So far, from 2017 to 2018, there has been an evolution of 3% of the population. As of first of January 2018, Luxembourg has a population of 602.005 inhabitants and there are more than 170 different nationalities. One important point to mention is that since 2015 to 2017 there were 6804 asylum and refugees' applications registered from the eastern countries because of war crimes.

The result is a mix of nationalities and cultures. The cultural alteration in population has undoubtedly affected cultural and social services. Structures are changing in order to accommodate the need of the new audience. The growth in population subjected from

globalization, migration, and people are fleeing from poverty, armed conflicts or lack of economic opportunities. Such an increase in population and presence of various cultures have primarily raised the need for mediation. Mediation is time and cost efficient as well as facilitate communication, promote understanding and assist the parties to identify their needs in order to reach their agreement. Luxembourg signed the Mediation Convention in 2012 in order to be in line with the EU Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matter. Since, in most civil and commercial contracts, drafted and concluded in Luxembourg, bear a clause of mediation. That is in case of a litigation, the matter is to be first resolved through mediation and if no agreement comes out, the alternate resource is legalistic via tribunals.

Strategies of cultural mediation are contained in many European contexts in order to foster links and promote relationships between people of different cultures. Predominantly intercultural mediations in order to support the communication and facilitate mutual understanding. Cultural or intercultural mediation is a form of mediation, which needs utmost attention with aim of making it more dynamic. This consideration is because the parties coming to a mediation process have their own practices be it of religion, relationship, lingual, identity and culture. In view of a practicing mediator, it is essential that these elements taken into consideration. However, if we consider these elements; would it compromise the postures of a mediator? Hereafter, in the chapter namely Mediation most mediation definitions characterize the mediator as the neutral third party. Thus, the adjective “neutral” needs to be illustrated.

## **2.2 Motivation for research**

Neutrality is the central concept of the practice of mediation. During my work so far, I, at several instances, faced situations while conducting an intercultural mediation, which

questioned the neutrality posture that I adopted. It made me wonder on the fact that I come from a multicultural background allows me to understand cultures better to better assist in the mediation process. Is it because I could comprehend the position of the parties? Is it because Mauritians live in unity even if they do not have a shared language and customs but rather the mix of cultures and the cultural understanding form the unity and identity (Carroll, 2000)? As a mediator's satisfaction fulfills when both disputant parties have reached a beneficial solution to their dispute, sometimes some covert strategies are engaged to cloud the outcome of the mediation in a positive manner. Being a mediator, whose main purpose is to solve conflicts, I found myself in conflict with myself. The sole reason was "Can someone really be neutral?"

Over the years, there has been a rise in number of western academics who have been questioning and criticizing the concept of neutrality in a mediation practice (Field, 2003). The concept of neutrality becomes questionable when anthropology studies have found that mediators in Central America, Asia and Middle East cultures maintain a close relationship with opposing parties based on the concept of trust, connectedness and continuity. (Golbert, 2009). In contrast, more western-based practices, according to Cobb and Rifkin (1991) often refer to neutrality using the concepts of justice, power and ideology.

As a mediator, it is important that the neutrality theory is depicted in order to have a clearness whether this concept is essential or not at practice. The key concepts namely mediation and neutrality will be scrutinized in the subsequent sections followed by the data gathering procedure; the said methodology. The findings are to be decomposed in order to attempt to have a better overview about the neutrality concept in mediation. It presumes that this study will contribute to the existing studies where the neutrality concept in mediation is ambiguous or not.

### **3.THEORETICAL FRAMEWORK: MEDIATION**

#### **3.1 What is mediation?**

Mediation is a time and cost efficient, confidential and voluntary process in which individuals alter the feature of their conflict interactions from negative, destructive to positive, and constructive (EU Memo/08/263). In the process of mediation, a mediator in reaching a resolution together rather than an imposed arbitration assists disputant parties or adjudication-based system. Such practice is rapidly becoming a popular form of complaint resolution, particularly those complaints that involve high level of emotion. This is effective when such alternative of solving conflicts at the preliminary phase of any disagreement is considered. This is to avoid both parties to become rooted in their positions before the conflict escalates. In order to have a profound understanding of the practice of mediation, it is essential to explore the concept by looking at the definitions, characteristics, history and its process.

#### **3.2 Defining Mediation**

Although differences of opinion still exist, there appears some agreement that mediation refers to a decision-making process wherein a third party known as a mediator assist the relevant parties. The mediator works by facilitating consensus between both parties in dispute by addressing their fundamental interests and needs as opposed to their stated positions. Mediation is a practice that requires several skills such as to hear out the parties, to handle emotions, to assist the negotiation process and generate options that are acceptable and agreed. Additionally, to break dilemma that may frequently arise between the disputing parties to assess the options and arrive at a consensus. The mediator takes in all the information, analyze it, defies the perception of the parties with the purpose of aiding them see each other's perspective. In consequence, supporting both parties from a confrontational to a collective mode to develop consensus. (Ab. Hamid, 2017). Importantly, mediation is non-binding, in other

words, a mediator cannot enforce a resolution to a dispute. Parties entering direct negotiation may not have the benefit of such neutral intervention. It is noteworthy to highlight that the mediator's acceptance by the parties involved in the mediation process.

Many scholars and researchers have defined mediation. Indeed, there are multiple definitions of the concept. Professor Joseph Stullberg (1981), wrote that despite the expansion of mediation practices over two decades, a common understanding as to what constitutes mediation has faded. Thus, according to him it is crucial to identify and clarify the principles and dynamics, which in sum constitute mediation as a dispute resolution process. Therefore, it is indeed essential to scrutinize the mechanics of this process. For instance, Spencer and Brogan (2006) stated that mediation yet remains a fluid concept whilst Mc Corkle and Reese (2005) argue that mediation is a difficult term to pin down to a single definition. While some researchers have talked about the fluidity of the concept others argued about its complications. It clearly demonstrates that this process perception lays through different lenses. Consequently, an examination of definitions is crucial in trying to have a better comprehension of what constitute mediation.

Davis and Duncan (1982) defined mediation as settlement of a dispute involving techniques to a negotiation process in which a skilled detached neutral person assists in changing the minds over the conflicting needs by suggesting, to reach an agreement. For them, mediation is purely a settlement of dispute. Therewith, in which the "neutral" notably the mediator's fundamental role is to assist, communicate, negotiate and make disputant decisions in favor to reach a settlement. It is essential to note that this role does not include determining a solution. For Michael Noone (1996) mediation is a process in which a neutral and impartial third individual, which is a mediator, is to simplify the process of discussion. The mediator facilitates the parties in the dispute to facilitate communication, promote understanding between both parties and help disputants to focus on the relevance of the needs of each other in order to resolve the

issues. Moreover, the skilled mediator also uses creative and proper techniques in the interests of reaching a viable resolution.

Such practice appears in the essay of Francis Bacon (1914, XLVII of Negotiation). Bacon points out “it is generally better to deal by speech than by letter; and by mediation of a third than by a man's self”. In both definitions, there appeared a general description of what consist mediation and its dynamics. Emphasis is on the word “assist”. The latter is a broad term meaning it could involve any number of third activities in term of intervention like arbitration and consultation.

Some researchers in defining mediation emphasized on the third party’s lack of control over the resolution while settling a dispute. For example, Kriesberg (2007) asserted that mediation pertains to help the conflicting parties to negotiate and reach an agreement by themselves, but not imposing one. Similarly, for Podolefsky (1990) mediation is a process of conflict management in which a third party facilitates the negotiations between two parties but is limited to impose an authority to a decision. According to Singer (1990), mediation is form of third-party “outsider” assistance to the dispute, who has no power to make decisions for the parties.

In the same line attempts to discuss mediation, there has also been a tendency of characterizing its specifics. Bingham (1986) assumed “an assistance of a ‘neutral’ third party to a negation”. Similarly, Applegate and Beck (2013) deduced that mediation is a confidential process in which an impartial and neutral third-party assist disputing parties to reach a mutually acceptable agreement on all or some of the issues dispute. In conducting their research, Mc Corkle and Resse (2005), defined mediation as the process whereby a mutually acceptable third party, who is neutral and impartial, facilitates an interest based communicative process that enable disputing parties to explore concerns and to create their outcome.

On closer look, at the examination at the existing definitions there seem to be an indication that researchers have adopted different approaches to their interpretation of

the term “mediation”. Some have put forward broad definitions without investigating into the specifics. They view mediation as a third-party assistance. Duly, some scholars felt the need to distinguish mediation from other forms of third party’s intervention. Some emphasized the lack of control of the third party’s involvement for the outcome while some stressed the neutral nature of the third party’s involvement. A trend is visible in defining some specific characteristics especially the assumption that mediation is a neutral process. The referred definitions feature the consistent and informal process inherent in mediations. Unanimously, the connotations include key provisions such as assist, third party, mediator’s potential as neutral, impartial and parties’ aptitude to mediate a resolution of their own. In relation to a mediator’s acceptableness, it is notable to highlight the parties’ perceptions about the intermediary’s view, potential biases, and objectivity toward the issues in question. Frequently, the relationship of a third party’s perspective refers to neutrality (Moore, 2014).

An examination of neutrality concept will follow in the next chapter for the objective of this paper. Following the definitions of mediation, it is notable to have a short overview of its history.

### **3.3 History Overview**

It is claimed in Kovach’s (2004 p.18) book titled ‘Mediation: Principles and Practice’ that “...mediation was used long before recorded in history” to solve conflicts. Negotiation practices subsisted in history. Humans be it at any point in his or her life, on some matter or another, some more effectively than others got accustomed to this practice. Humanity has survived and prospered as a specie for the most part because of this ability. Of all modes of conflict management, negotiation proceedings are the most compliant, effective, and economical. It is importantly sensible in the human repertoire for managing issues, differences, and controversies.

In early human history, conflicts occurred mostly within and between individuals, families, tribes, and communities<sup>2</sup>. Despite the abject requisite of negotiation for human survival, the activity remains suspect in the minds of most people even or especially in centuries that are more recent. This is because societies have become socially, politically, technologically and economically complex. Thus, making the need for negotiation more profound than ever. This negotiated process with time have taken a “hybrid” form namely Mediation wherein a third party assists the negotiation process (Benjamin, 2012). Benjamin writes that negotiated processes are independent to describe the configuration of actions and communications that lead beyond any negotiation. According to Benjamin (2002), it includes every approach of expression or action, whether formal or informal that serves to manage, minimize or settle issues or differences that develop between people.

The roots of the practice of mediation are in Ancient Greece around the 8<sup>th</sup> Century BC onwards. An Ancient Greek culture led by a philosophical movement to make individuals consider about their relationships with others and subsequently about themselves (Lascoux, 2011). Even though, they did not officially use the word “mediation”, they established two theories of dispute resolution. Firstly, the intervention of a third party to encourage individual responsibility and separation from passions and secondly intervention of a third party that does not empower individual responsibility but rather steps in to substitute the party and strengthen compelled decisions (Gutierrez 2012). The faith in and high regard that the ancient Greeks had for mediation and mediation type of dispute resolution practices can be contemplated in the myth of Hades and Persephone.

During Roman times, many philosophers acknowledged the importance of mediation. Mediators were often referred to as mediums, conciliators and interlocutors then. For instance, Confucius adhered to the concept of ‘harmony and co-operation’ and ‘no litigation’. Consequently, the need to produce an outcome by negotiation,

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<sup>2</sup> [www.mediate.com/articles/NaturalHistory.cfm](http://www.mediate.com/articles/NaturalHistory.cfm)

understanding and agreement, with an emphasis on compromise. The Chinese adopted similar principles and used same processes to present mediation for years (Roberts 2013). The Chinese mediation practice inspired by the dominant Confucianism philosophy, in promoting a harmonious living as a social value and goal (Di, Wu 2009). It also underpins the basis of the Chinese judiciary and system (Cohen 1996). Unlike the unique characteristics of the ancient and modern mediation practices in China, the western mediation differs in its practices and styles.

Along the same lines, Australian mediation practices main emphasis is on the independence of the community involved instead of the autonomy of the parties in the conflict. Such practice known as *Mawul Rom* and is a ceremony of the Australian aborigine. *Mawul Rom* is "...bring people together within a ceremonial context to resolve disputes, promote group decision-making and heal damaged relationships between individuals, families and clan-nations" (The Mawul Rom Project 2008, p.10). This practice bears multiple traits like the modern mediation (Spencer and Brogan 2006). Despite mediation or similar conflict resolution practices considered as standard in traditional societies, they seemed to fade for distinct reasons such as colonization or initiation of legislation by the westerns. While the mechanisms of traditional conflict resolutions were prohibited in some colonized societies, in some countries or other societies, conflict resolution or affluent mediation practice were reinstated from the Western.

Mediation is also present in the history of the United States. For centuries the Native Americans, precisely the Navajo Indians used the *naat'anni* who is the tribal headman for mediation in order to solve dispute. (Lieder 1993). The Navajo traditional justice consider that "differences or disputes can be adjusted between individuals using learned values and with the help of family or clan members on the basis of the strength of relationship." (Nielsen & all. 2005 p.157). However, the traditional practices do not tally with the modern American mediation practices. Similar practice of traditional resolution in rural Indian societies are present wherein the village head "Panchayat"

sort conflicts. Nevertheless, the modern mediation practice differs from the traditional approaches.

### **3.4 Types of mediations**

Mediation practice encompasses diverse domains namely Civil, Commercial, Penal and Cultural. However, there are different types of mediation to approach the proceeding distinctively. The three main types of mediation are looked at in an effort for this paper.

Facilitative mediation was the only type of mediation practiced and taught during the early 1960 until 1970. In this practice, the mediator is responsible for the process and does not influence the outcome. The aim is to help the parties through assistance, questioning and validating their interests in order to achieve a durable agreement. In contrast, evaluative mediation is a process modeled on legal settlement. An evaluative mediator might make formal or informal recommendations based on legal rights rather than emphasizes on the needs and interests of the disputants. The basis is on the legal concept of fairness. Facilitative mediation primarily focuses on interests of the parties whereas evaluative mediation is concentrated for their rights.

The third main type of mediation is the transformative mediation. This type of mediation gained popularity after the publication of the book “The Promise of Mediation”. The authors of the book insisted that this process is not limited to make a resolution but is rather on repairing the relations by empowering and making recognition of the values, needs and interests of the parties (Folger, Bush 1994). Although facilitative and transformative mediation bear similar protocols for the interest and outcome of the disputants, nevertheless transformative prime focus remains the empowerment of the relations for clarity.

### **3.5 How does the mediation process work?**

After an outline of the main types of mediation, it is requisite to discuss a typical mediation process. There are different processes of the practice but what they have in common is the stages. The mediator who introduces the parties to each other welcomes starting by the disputant parties. The mediator explains his neutral position to the parties and the process of mediation. The introduction ends by an explanation of the primary rules of the process in order to have a smooth process. The ground rules include of no interruption when a party is talking, respect and confidentiality. Following the introduction open statement is the disclosure of the problem of the parties. Usually the party who initiated the process will start by exposing the issues. The other party will then tell his side of the problem or story from his view. The mediator let each party at turn narrate their issue from their point of view without interruption. By doing so, this allows the parties to frame the problem in their own mind and thus the mediator can assess the emotional state of the conflicting parties. The motive behind the statement of problem is not for the quest of the knowing the truth but to find the root of the issue. This will be a lead to help to resolve the conflict. The gathering information is after listening to both parties, the mediator will ask open-ended questions to get to the emotional context.

The mediator often reformulates the findings in terms of the issues, facts, feelings, and interests. The mediator will often rephrase negative or ambiguous language into a neutral manner and will check if he summaries well. This approach is specially practice in facilitative style. During the information gathering, reformulation and summarizing, the mediator will try to identify the common goals and the issues to settle in order to assist to find a solution. Usually at the stage, the issues are more translucent thus allowing the parties to have a better understanding of their viewpoint. Once the problem is pointed, the bargaining for generating options to reach an agreement start. There are several possibilities for developing options at this stage. For instance, group or subgroup discussions, the mediator put forward a proposal which takes a modifying form by the parties or the caucus method can be used (i.e. getting together separately

for the purpose of discussion). The bargaining step is sort of a brainstorming session in view to explore potential solutions. This can lead to a final agreement thus a resolution to the conflict.

It is important to mention that during the whole process; the mediator remains neutral to the position of the parties as well as to the outcome as it outlined in the definitions. Therewith we will examine the neutrality concept to have a clearer picture of what it constitutes.

## **4. THEORETICAL VIEW: NEUTRALITY**

### **4.1 What is neutrality?**

Given that the scope of this paper is to study the neutrality posture of a mediator in an intercultural mediation, emphasis is on the term neutrality in this section. The word neutrality is derived “from the Latin *neuter*, meaning 'neither of them,' a condition in which attitude and action reflect a refusal to take sides in a dispute, or a lack of bias or favoritism” (Yarn, 1999 p.322). Cecchin (1987) describes neutrality as the creation of a state of curiosity in the mind of a therapist. The author defines curiosity as exploring and inventing alternative views and moves. According to Cecchin, these diverse views and moves breed curiosity. Thus, in a repetitive pattern, neutrality and curiosity position one another distinctly in a commitment with a symbiotic detachment to any specific position.

Departing from a general perspective of neutrality to the mediation context, Douglas (2012) states that the indispensable requirements of the mediation proceedings are neutrality on the part of the mediator and its autonomy. In line with this statement, Zamir (2011) contends that the absence of neutrality in the mediation practices challenges the foundation of mediation. The term of neutrality is often present in the descriptions and definitions of a mediator. The mediator is often regarded as the neutral

third person, Fehrenbach & all (2014). Thus, it is significant to have a brief overview at the definitions of neutrality in the context of conflict resolution to depict the meaning of neutrality for the study of this paper as well as how it is perceived.

## **4.2 Definition of neutrality in Mediation**

Even though many researchers have attempted to define neutrality for a mediator, according to Exon (2008) the meaning ascribed to the term neutrality is still vague. This is because neutrality is an elusive concept; sort of ambiguous (Becker 2013). According to Cobb and Rifkin (1991) neutrality can be both transparent and opaque. Quoting Cobb and Rifkin (1991, p.37): “[T]ransparent because it operates on the basis of widely held assumptions about power and conflict, and opaque because it is exceedingly difficult to raise questions about the nature and practice of neutrality from *within* this consensus”. In line with this statement, it is assumed that mediators have power (Shapira 2008). The power used by a mediator during mediation is to assist the conflicting parties to communicate with each other in order to alter their positions, perspectives and come to an agreement. Often the term power in mediation refers to the advantages over other conflict resolution processes (Bowen 2005).

In practical terms, virtually all conflicts directly or indirectly involve power. Power can be conceptualized as an exchange between the characteristics of a person and the characteristics of a situation, whereby the person has access to valued resources which he uses to achieve personal, relational, or environmental goals and often also by using various strategies of influence (Coleman et al 2004, p.120). Power may also be perceived as a symbolic expression of one’s identity and right to self-determination. In addition, power in conflicts is generally used as an authority for achieving an aim to self-determination. Conflict is sometimes a mean of seeking or maintaining the imbalance of power in relationships. Thus, based on these features, neutrality can be identified as transparent. Consequently, neutrality is a difficult concept to depict as its meaning depends on the context (Mayer, 2011). The concept can imply conflicting connotations

and, respectively, Mulcahy (2001, cited in Noone and Ojelabi. 2014, p.164) concludes that the concept is identical to “invisibility” and “passivity”. In contrast, a mediator’s neutrality is the objective expertise in simplifying communication between conflicting parties (Alfini et al. 2001).

Furthermore, a mediator neutrality is often debated and contested which has several meanings (Astor 2007). According to Astor (2007) the complexities of defining the term is due to the lack of agreement and consistency among mediators to define the term. Thus, it is essential to have a look at different perspectives concerning the meanings of neutrality in mediation for the purpose of this research. The following section will concentrate on the struggle of academicians and practitioners to find a definition of the concept of neutrality.

### **4.3 Theoretical perspectives on the meaning of neutrality**

As indicated previously, for Astor (2007, pp221-239), neutrality has several meanings. The author outlines four meanings, also considered as key elements when defining neutrality for the purpose of mediation. According to her, firstly, neutrality is a frequent term used to demonstrate that a mediator can affect neither the content nor the consensus of a mediation process. His role is only limited to the control of the process of mediation in solving the dispute. The second meaning of neutrality is to refer to impartiality. In her view, both disputant parties should be treated equally and not to be subjected to favoritism. The third aspect of neutrality is that no influence by financial or personal connection can arise between a mediator and either conflicting parties. A further element, the fourth, Astor writes, is independence. That is, all mediation should be free from governmental influence.

Unlike Astor, Moore (2003) proposes that neutrality refers to the posture and relation between the mediator and the conflicting parties. Nevertheless, he asserts like Astor, that a mediator bears no prior association whether social or beneficial with any of the

parties. In defining neutrality, Moore further states that a mediator does not gain any favorable benefits or remuneration for special treatment in the mediation session and its outcome. Similarly, McCorkle and Reese (2005) suggest that the neutrality of mediator lies in not being personally biased towards either parties. Boulle and Teh (2000) view furthermore neutrality as a concept bearing multidimensional meanings. In addition to the statements of Moore (2003) and McCorkle (2005) regarding neutrality, Boulle and Teh further expands the meaning. They ascertain that neutrality for a mediator means not to be judgmental, having no prior knowledge of conflict and not making use of substantive knowledge to influence the outcome.

Thus far, in attempting to define neutrality of a mediator's influence on the outcome, some authors for instance Boulle, Teh, and Moore link being neutral to the outcome but not to the process while others maintained that mediators can remain neutral and influence the outcome (Astor 2007). Ultimately, Taylor (1997) argued that neutrality is an ongoing process wherein some mediators practice neutrality distinctly but remain ethical. She views neutrality as a continuum possessing two specific points. In terming these two distinct ends "strict neutrality" and "expanded neutrality", she views the process opposed to an absolute structure. As an example, a mediator closer to *expanded neutrality* end of the continuum would feel more the need to balance power and will actively respond to emotions in contrast to one who is nearer to *strict neutrality*. Thus, practitioners would bear different characteristics depending on their variation upon the continuum. Despite the discrepancies, Taylor underlines that a mediator can embrace the meaning of neutrality at any point of a continuum and yet be ethical.

In sum the term appears to be a multifaceted concept due to its diverse definitions, and theoretical perspectives regarding the meaning of neutrality proliferate in literature. The term neutrality in mediation seems to be a matter of different perspectives among diverse authors when associated with the outcome of a mediation process.

#### **4.4 Empirical perspectives on the meaning of neutrality**

Even though theoretical perspectives abound in the literature regarding the meaning of neutrality, there is insufficient empirical research done on this subject. Nonetheless certain prominent authors did some empirical studies focusing on understanding the mediator's perspective on neutrality. Through the means of interviews with mediators, video sessions of mediation and support of literatures, Cobb and Rifkin (1991) studied the mediator's perception of neutrality. Their findings led to two definitions for the meaning of neutrality, namely *impartiality* and *equidistance*. Neutrality as impartiality dealt with no emotions and being unbiased, while neutrality as equidistance is finding the power balance between the parties through empathic communication. Cobb and Rifkin (1991) and Rifkin et al. (1991) concluded that the two meanings of neutrality create an inconsistency of neutrality in practice. In sum, for them, these two meanings of neutrality, impartiality and equidistance create a paradox of neutrality in practice.

Practitioners at times in order to achieve an equitable outcome (equidistance) must balance power between parties, nevertheless this practice requires a mediator to favor a party over the other. This effort contradicts impartiality. The equidistance hypothesis in neutrality was analyzed and criticized by Feer (1992, pp 173-177). In his view, equidistance is a mere tool contrary to an overarching concept. He outlines that balancing power through empathetic communication does not constitute to impartiality. He regards the tool as an element which deals with power balance based on empathy. According to the author, this authority of finding the power balance does not consist of being impartial.

Emphasizing on hypothesis of the power balance, authority and favoritism as suggested by Cobb and Rifkin, Jacobs (2002) views the demands of power balance between parties, empathetic communication, favor one side (viewed as relational closeness) in an effort to aid parties reach an unbiased, symmetrical agreement as competing and difficult requirements to maintain neutrality. Still, at the same time he describes them

as constructive moves for the parties to an equitable settlement. Jacob further describes neutrality as a “practical impossibility”, given the “gap between normative ideal and actual practice.” (Jacobs 2002, p.1407).

Another empirical study in line with mediator’s neutrality was done by Douglas (2008). She did a qualitative research by analyzing ten in depth interviews transcripts of mediator’s actual or lived experience during a mediation process. The mediators were from the Dispute Resolution Centre, Department of Justice, Brisbane, a government funded and administered community of mediation. The study was about how mediators make sense of neutrality in practice. In trying to understand mediator’s perception of neutrality, Douglas identified four thematic area for constructing the meaning of neutrality: impartiality, evenhandedness, process versus content and self-determination. Douglas refers neutrality’s impartiality as lack of bias, evenhandedness to equal treatment. She further reports that insignificant of the outcome, mediators are neutral but are in control of the process. At last she views self-determination as parties’ autonomy to reach an agreement. Following the view of neutrality as a multidimensional concept put forward by Boulle and Teh (2000), Douglas research bears similarities of the concept leading to conclude that neutrality is a multidimensional concept which embodies diverse aims and dimensions.

In yet another study, further observation on the perception of the meaning of neutrality revealed that the fundamentals of the theory of neutrality was uniformed among the mediators but in practice, they struggled to maintain their neutrality posture Mulcahy (2001). The observation was conducted during housing mediation sessions at a mediation community center. In total, 38 mediation sessions were scrutinized, participation in informal discussions and formal interviews were conducted with the mediators and housing agents in Britain. Mulcahy concluded that even though the mediators knew the theoretical principle of the concept of neutrality, the mediators in practice seek reflexivity. He reports that reflexivity in practice is to “recognize rather than deny the possibility of bias while attempting to minimize its impact” (Mulcahy 2001, p.517).

Such reflexivity is sought to be attempts to acknowledge instead of denying the possibility of bias and ease its impact for a fair outcome. For instance, mediators were open to the parties about the values they brought in the mediation session. They talked about potential influence of their biases on the process and outcomes with their peers. Eventually through discussions with the participants, a “self-reflexive” approach emerged to mediation at the mediation community center. According to scholars Astor (2007) and Rock (2006), the practice of self-reflexivity is a method to maintain power balance and issues of bias in order to reach a consensus.

#### **4.5 Critics of neutrality**

Astor (2007, pp 221-239) acknowledged the necessity of reflexive approach to maintain neutrality in mediation. She advocated that mediators “actively consider their own identities, experiences, politics, attitudes and beliefs...” and the impact of these personal attributes on a mediation session. She ascertained that through a reflexive process, the mediator is not only validating the perspectives of both conflicting parties but simultaneously making them aware of their self-perception. Rock (2006) asserts that in order to have an equitable outcome, the parties must find their own consensus. For this scholar, in facilitating this process, the mediator must bear the neutrality posture. However, he also argues that in order to reach a fair outcome in a neutral manner, mediators should pay attention to their reflections and emotions in practice. This is to nurture the reflexive process and develop the self-awareness of perception. For both scholars the mediators experience is the resulting change in mediation practice align with proponents of self-reflexivity.

The perception of neutrality may vary significantly between cultures. Taking into consideration greater extent of criticisms, the neutrality in mediation has been characterized simply as an aim or objective, or ideal, incapable of pragmatic implementation (Astor, 2000a, Mulcahy, 2001). Neutrality is referred by critics as a

prevalent and delusive myth, arguing that it is neither possible nor desirable (Boulle, 2005; Della Noce 1999; Field, 2000). According to Freer (1992, pp 173-77), “for certain it is that neutrality, both as theory and practice, is a slippery slope full of tensions and contradictions”. Still mediators persist to claim that they are neutral (Field, 2000, Astor & Chinkin, 2002) and seek virtue in the claim (Astor 2007). Thus, it is of essence to assess and consider this posture when mediators are dealing with conflicts emerging from different cultures. As pointed out the sense of this paper is to investigate the neutrality posture of a mediator in an intercultural mediation, the following section will emphasize on culture and mediation.

## **5. MEDIATION AND CULTURE LANDSCAPE**

### **5.1 What is culture?**

With today’s progressing globalized societies come new challenges, amongst these, managing increasingly diverse workforces and cultures. Fields of psych-sociology, sociolinguistics and communication have seen important developments in the study of culture, identity and their importance in the wellbeing of an individual over the past decades. Issues of prejudice and tolerance have become a common subject regarding the valuation and acceptance of diversity across all domains. Intercultural mediation is a reoccurring term in contemporary approaches. Nowadays the society often comprise individuals of multiple nationalities and cultural backgrounds, which can lead to myriads of issues from misunderstandings to outright social conflicts. The field of intercultural conflict resolution focus on strategies to avoid or solve such issues and accommodate everyone’s identity.

The first notion to appear in an intercultural conflictual context is that of culture. Such as interpreted today, culture is a social construct, which serves as a common

denominator for groups of individuals. This differs from its earlier understanding as a variety of static norms and social rules requiring strict adherence for legitimate affiliation which problematically posed culture as an entity to be analyzed as an unchanging “whole”. Contemporary approaches to culture postulate on the contrary that everyone is an active actor in the construction of a culture (Giordano, 2003). This not only justifies differences between individuals of a same culture, it also establishes culture as a way to “organis[e] internal differences and [...] heterogeneity (economic, social, generational, etc.) between the individuals and the groups that constitute a society” ( Rivera, 1997/2000). In other words, a fundamentally dynamic construct dependent on the values of the individuals defining and identifying it (Giordano, 2003).

If culture is not a static set of norms prescribing values, the causes for conflict doubtlessly lay with individuals and as to how they relate to their culture and identity. In short, identity. Identity which tends to be interchangeably used alongside personality, refers to one’s individuality, what makes them different. It is widely accepted that an individual’s identity is constituted of what makes them unique genetically, physically, intellectually and morally. The construction of one’s identity is a process of years endured by all. The links from identity to the notion of culture is the idea of its construction through social contact, but not solely.

The way individuals define themselves is equally dependent on their own perception as it is on others’; identity is the complex result of a personal and social development-taking place throughout the life of an individual. Like culture, it is not a static conceptualization of some norm or characteristic, rather it evolves dynamically and continuously through personal experience, socialization and other factors. However, for an improved understanding of what constitute intercultural mediation, culture and its importance bear relevance. In the next section, we thus go in further details approaching this notion of culture as it is the core of this work.

## 5.2 Defining culture

Like mediation and neutrality, culture is a term with several definitions. Anthropologists have defined culture long ago. Faure and Sjöstedt (1993 p.3) defined culture as “an aggregate product... [that] typically consists of such social phenomena as beliefs, ideas, language, customs, rules and family patterns”. Hofstede (1980 p.24) regards culture as “the collective programming of the human mind that distinguishes the members of one group from the other”<sup>3</sup>. Culture in this sense according to Hofstede is a system of collectively held values. The latter points out that he regards culture as a set of values and perceptions that may influence an individual behavior within a community. Dahl (2004) highlights, in pointing out that Hofstede is not attempting to explain the multiple identities of individuals within a society but rather emphasizing on factors of societal common values and perception. Hall (1976) defines culture as another fundamental dimension that has impact on a person similarly to status, activity, setting and experience influencing an organism’s perception.

Dahl (2004 p.1) clarifies that though there is multiple definitions of culture, the meaning is uniform: “ culture is an abstract entity which involves a number of usually man made, collective and shared artifacts, behavioral patterns, values or other concept which taken together to form the culture as whole”. Culture distinguishes social groups in preserving their distinctive identities. Departing from the explanation of culture given by Faure and Sjöstedt (1993 p.3) that culture “orients or perhaps even directs, judgement and opinion”, Dahl (2004 p.4) deduces that culture “acts as an interpretive frame of behavior”. Consequently, culture has been an explanation of different social norms. Hall (1976) concurs that culture is an underlying element that influences an individual in the same manner that activity, status, setting and experience influences an organism’s perception. As an example, Dahl (2004, p3) raises the notion of “French Culture”. It implies that the society shares certain values and exhibits resultant behavior and

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<sup>3</sup> <https://www.termpaperwarehouse.com/essay-on/The-Impact-Of-Culture-On-Politics/434225>

artifacts, which distinguishes itself from other cultures for instance the “French culture” to the “German Culture” or the “Spanish Culture”.

In this sense, language is just one part of culture playing a role in justifying how culture has affected behaviors of people within each society. Language is said to be the answer to anticipating an individual’s perception (Faure and Sjöstedt, 1993). Therefore, under this notion, it can be implied that culture has a significant role in the area of communication within a society.

### **5.3 Cultural differences and mediation**

Since culture has an important role in communication, it can be concluded that “...culture may be both an obstacle and a facilitator” during a social interaction (Faure and Sjöstedt 1993, p.4). Communication in a conflict resolution or negotiation process may be facilitated when two parties share common values and perception. This is because the risk of misunderstandings and misinterpretations is substantially minimized. Nevertheless, interactions can be strained or severed when misunderstandings occur due to cultural differences and thus offending the other party (Faure and Sjöstedt (1993, p. 5). Such obstacle arises when two parties do not bear the same perception on similar matter. At such instance an insight of the counterpart’s cultural values becomes essential.

Thus, in attempting to understand the nature of intercultural mediation, a blend of *culture* and *mediation*, it can be assumed as a “problem solving activity that deals with communication breakdown” (Liddicoat 2016 p 3). Meyer (1991) formulated the mediation component of intercultural communication as the ability to handle cross cultural problems arising from cultural differences. Simultaneously, according to Fitzgerald (2002) intercultural mediation is a constructed term for problems of intercultural communication. For the said author, thus, intercultural mediation has

served to embody disputes as the “stuffs” of intercultural mediation and establish miscommunication as unmediated state of interaction between cultures.

An efficient way to think about intercultural mediation is to view it as an interpretative and relational activity. More specifically, intercultural mediation is “an active engagement in diversity as a meaning making activity” (Liddicoat & Scarino, 2013 p.54). Simply put, it involves the mediator interpreting meaning of various others for oneself and others. This, thus, implies that intercultural mediation is not only the settlement of problems link to communication but rather the development of mutual understandings between parties in communication. According to Iriskhanova et al. (2004), intercultural mediators are actively engaged in process such as understanding, commenting, explaining, interpreting and negotiating during the mediation process. Gohard-Radenkovic et al. (2004b) ascertain that intercultural mediators both analyze the meanings of others constructed within cultural framings and provide those who do not share the cultural framing with the means to understand others. Prof. Byram (e.g. in Alred and Byram, 2002, Buttjes and Byram, 1991a) has explained the core nature of mediation as the competence for explanation of cultural phenomena. For Prof. Byram, it involves significant or critical comparison of cultural phenomena, a recognition of the relativity of cultural concepts and the negotiation of meaning within and across cultural frames. Thus, it can be deduced that intercultural mediation is essentially an interpretative act wherein explanations are formulated and expressed as a critical activity.

A significant aspect of this critical activity that is the interpretative process is the capacity to depart from the existent as in present cultural perspective to view cultural phenomena both from the internal and external perspective (Kramersch, 1999, Byram et al., 2002, e.g. Abdallah-Preteille, 2003, Liddicoat and Scarino, 2013). The intercultural mediator needs to decenter his or her own cultural framing to see the others from different perspectives. Byram, et al. (2002 p.19) explains this as “the ability to make the strange familiar and the familiar strange”. Decentering implies the ability to

comprehend diverse perspectives and to seek for and accept diverse potential interpretations. So far, through literatures certain authors identified significant components of mediation as an awareness of cultural concept, ability to make critical comparison and capacity to negotiate meaning. However there seem to be more emphasis on the role of interpretation. In a way, such a mediation can be perceived as a form of sense making in which parties grow an awareness or sense of multiple cultural realities. This paper takes its aim examining the posture of a mediator's neutrality when confronted at interpreting meaning for oneself and others.

## **6. RESEARCH QUESTIONS**

The aim of this study was to examine the understanding of the concept of neutrality intercultural mediators have by directly asking about their perception of the concept and how it is applied in practice. This study also eventually aimed to contribute and to enlarge the existing empirical research done so far in a more or less similar manner for the said concept. Such as for instance the investigation of the alternative constructions of neutrality done by Cobb and Rifkin (US), Mulcahy (UK) and Douglas (Canada). The studies are mentioned in the previous chapter of neutrality. The participants involved in this study did not hail from a specific country unlike previous research has done. The individuals involved were geographically scattered worldwide but are practitioners of the same field. The main question for the study was:

- How do mediators make sense of neutrality in their practice?

Related additional question:

- What range of meanings do mediators associate with the concept of neutrality?

## 7. METHODOLOGY

In order to answer the questions at the heart of this study qualitative research approach was adopted. Qualitative research deals with social and behavioral phenomena. It aims at understanding the world in which we live, how and why things are the way they are. Basically, this approach is deemed best to answer addressed questions on ‘how’ things happen and unfold, as well as on the meanings people assign to events. Qualitative research is a research method that emphasizes on obtaining rich data through open-ended and conversational communication. This method is not only about ‘how’, ‘what’ people think but also ‘why’ they think so. It allows for extensive and further inquiring and questioning of people interviewed based on their responses. The researcher also tries to perceive the motivations, feelings and meanings ascribed to the responses. Therefore, this methodology helps to disclose the behavior and perception of the core audience related to a specified subject.

Understanding how the audience determines or resolves can help the researcher to make conclusion about the research. Wolcott (1990, p.13) quoted for a qualitative researcher “writing well is neither a luxury nor an option but rather it is absolutely essential”. The ultimate task of the researcher is not to be bias but to convey clearly to the readers the findings of the research (Sandelowski 1997). My utmost aim was to convey the results to you as clear as crystal. I opted for qualitative approach because of its means of arriving “to research about human lived experiences, behaviors, emotions, and feelings” including the principle of organizations based on their function or role, their view on societal norms and values, cultural background, and interactions between various cultures and nations (Strauss and Corbin 1990 p.11).

Accordingly, Flick (2014) emphasizes on how one makes sense of something in the world. Flick (2014 p.542) stated that “Research interested in analyzing the subjective meaning or the social production of issues, events, or practices by collecting non standardized data and analyzing texts and images rather than numbers and statistics”. Hence, meaning that the outcome is not statistically based or quantified but rather consolidates facts. The said research methodology is considered as an approach which

no theory or paradigm nor models nor practices, solely of its own (Denzin & Lincoln, 2011). Therefore, qualitative approach seems to be a broad concept under which various issues can be set. Consequently, it has positive and negative views.

### **7.1 Advantages and disadvantages: Qualitative Research approach**

This approach considers the study of individual cases or events and is regarded as an idiographic research (Kelin & Meyers, 1999). Idiographic research stresses on individual cases or events and involves finding out much information about a limited theme research. This research approach is designed to draw meanings to the study audience and is certainly not aimed to infer generalization. To conduct idiographic research, qualitative methods are used. Qualitative research approach provides thick (detailed) description of the participants' feelings, opinions and experiences; and interprets the meaning to their action" (Denzin, 1989). Such approach enables the researcher to understand the participants through interpretivism of human experience in distinct settings.

Qualitative research approach allows the researcher to find out the participants' inner experience, and to determine how meanings are shaped with and within culture (Corbin and Strauss, 2008). Qualitative research design structure is flexible, and it can be shaped according to the researchers' needs (Maxwell, 2012). Looking at the positive aspects of the qualitative research, I was convinced that this method was the convenient one for my research in attempting to portray the shades of neutrality of intercultural mediators, but I deemed considerate to also have a look at the drawbacks.

Notwithstanding the advantages of the qualitative approach methodology, it also bears some prominent constraints. Bryman (2008) states that according to quantitative researchers' qualitative research is too subjective. He claims that the qualitative results bear risks of unreliability for quantitative researchers because of the qualitative researcher's inconsistent positions about what is significantly substantial. This is because close connections often develop between the participants and the researcher

while conducting quality research. Silverman (2010) claimed that the qualitative research methods often ignore in-context perceptions and emphasize more on meanings and experiences.

Taking into consideration that I intended to collect data via interviews for the research, it deemed important to highlight that another issue related to research methods conducted with a small number of individuals such as in interviews raises the question of generalization to other settings (Harry & Lipsky, 2014). In a research study, participants are not meant to be representative of a population. Since, it is the characteristics of theoretical deficiencies which are to be acknowledged through qualitative data. The findings of qualitative research are to induce to theory rather than the assessment of generalization. According to Mitchell (1983, p207) the validity of a case study depends “not on the typicality or representativeness of the case but upon the cogency of the theoretical reasoning...” In sum after recognizing the virtues and limitations of the qualitative research approach I pursued my research using interviews as a mean of data gathering technique.

## **7.2 Qualitative method adopted: Interviews**

For the purpose of my study, I decided to use interviews as it suited my research for obtaining the data that I needed. Interviews are a type of field research method for qualitative research. Interviews may be used to explore views, experiences, beliefs and motivations of individual participants. An interview in qualitative research is a conversation where questions are asked to extract information. Interviews are done by the interviewer based on what the interviewee says. Qualitative research interview seeks to depict the meanings of core themes in phenomenology of the subjects (Kvale, 1996).

There are mainly three types of qualitative interviews namely (i) informal, conversational interviews also known as structured interviews, (ii) semi structured interviews and (iii) standardized, open ended interviews known as structured

interviews. John Schostak (2006, p.10) writes that an interview can be “described in terms of individuals directing their attention towards each other with the purpose of opening up the possibility of gaining an insight into the experiences, concerns, interests, beliefs, values, knowledge and ways of seeing, thinking and acting of the other.” Aligned with this description of interview, it reinforced my decision that conducting interview is the right mean for collecting rich data as such method encompasses all the features outlined for the objective of my research.

According to Kvale (2009) conversation is the main approach to human interaction, questions are asked and answered in interviews. He further sets out that qualitative research interview seeks to cover both a factual and a meaning level. Yet, he ascertains it is usually more difficult to interview on a meaning level. Simply put the interview is not a tool but a meeting, an encounter amongst other encounters in lives of individuals. The researcher or interviewer asks about and listen to, what the participant or interviewee has to say about their experiences, thoughts, opinions, feelings and views. Interview consists of important differences, disparities on views, persistent disagreements of certainty and significance. Every interview is biased and incomplete as per view of certain situations, circumstances, motivations or conditions of participants.

Being myself a mediator, while interviewing other mediators about the subject matter I constantly bore in mind that I should not be biased as any move I made to or away from participants, as it could involve certain degree of misconception. Nevertheless, this partiality also engaged for a possibility to refine the differences, experiences and originality of the participants tale. Therefore, this attention of mine could open possibilities of new statements of experiences, perceptions and understanding of the participants to the research field. In short, new knowledge is construed through interviews as it consolidates the diverse aspects of the participants into an embodiment of an idea. Once my mind was made up for conducting interviews for the research paper, it was very important to identify which type of interviews what ideal for this specific research. Among the three types of interviews models as mentioned above used for qualitative research namely structured, unstructured and semi structured, the latter

seemed appropriate. Semi-structured interviews consist of various core questions that help to determine the field to be explored and allows flexibility for discovery or elaboration of information emerging during the interview.

### **7.3 Semi Structured Interview**

Semi structured interview enables space creation within the interview for the participant to question, challenge, clarify, discuss and stretch over the highlight topic of the research. Conducting an interview is like hinging on two directions. Firstly, it is to listen actively to the participant for clarification if required and generate meanings. Secondly, it allows the interviewer to find and hold off issues popping out during the interview in order to be critically reflected and elaborated at a later stage. It is very important to engage explanations to ensure the clarity and accuracy of the data.

Semi structured interview permits the flexibility in asking a participant to elaborate on a point. For instance, in the flow of the interview to ask, "could you elaborate?" can generate more information, make the interviewer gain time to think through auxiliary questions and hence lead to deeper and detailed knowledge of the matter. Through this process of engaging the participant in clarifying his or her thoughts, participants gave profound meanings of their narratives. Thus, rich data could be generated to answer my research questions.

### **7.4 Research Questionnaire**

I drafted a questionnaire with questions to depict the neutrality posture of the intercultural mediator (copies annex). Several features were taken into consideration when I drafted the questionnaire. For instance, questions allowing me to learn more about my participants, their endeavors for the profession of being an intercultural mediator, their perceptions and conceptions of the core factor of my research. As my

research was based on neutrality, many questions addressed were related to the topic. For example, how the mediators perceive the concept of neutrality, their interpretation of neutrality, how did they apply it in practice, its ethical considerations, its importance at this profession, experiences and difficulties encountered when maintaining the neutrality posture and how did they overcome such difficulties. The questions were more open-ended questions that enabled further explanations and discussions during the interview.

As mentioned earlier, this research was not limited to a geographical scale for intercultural mediation practitioners thus I, being a polyglot was advantageous for me. The questionnaire was both in French and English. This was because I wanted to reach a variety of participants. The next step was to find the potential participants who would be willing to share their valuable insights to answer research questions. However, an important aspect was to be considered first that was ethics.

## **7.5 Ethical Considerations**

The moral problem which I faced by considering the qualitative approach was that what would be the impact on my participants with regards to ethical issues based on outcome of the research. Ethical issues to be considered included the “informed consent” of participants where it mentioned about the research in which participants were involved, about who was conducting the research, for which reason and about the results (Rahman 2017, pp 107). To maintain the confidentiality of the results and anonymity of the participants were also crucial along with these issues (Black, 1999). So, it was my responsibility to preserve the confidentiality of my participants in any condition. Hammersley and Traianou (2012) pointed out five commonly recognized principles: minimizing harm, respecting autonomy, protecting privacy, offering reciprocity, treating people equitably. I think more common ethical issues can be found in the research design as it is created according to requirements of research.

In qualitative research especially in human services experiences challenges associating with ethical considerations, such as in-depth interview and observation can be widely intrusive because highly personal matters of people are interviewed (Darlington & Scott, 2003). I asked my participants if they would be willing if I introduced them in the research paper as my participants and keep their anonymity during the analysis. They responded positively with exception of one participant who expressed the desire to remain anonymous. The consent form was standard for all participants, duly signed and approved for the research.

## **7.6 Participants Introduction**

In July 2019, Luxembourg hosted the Xth Conference of the World Mediation Forum from 9<sup>th</sup> to 11<sup>th</sup> July 2019. I was privileged to participate in this conference. As a member of ALMA, the Association des Médiateurs agréés, I could get hold of the list of all the participants, including list of the speakers who were holding workshops and debate one month prior to the event. I was surprised to note the several eminent mediators and pioneers of mediation participating. It was the best opportunity for me having the potential participants gathered at the right place for collecting my data as well as expanding my network. I shortlisted those who primarily deal with intercultural mediation, located at different geographical location and started contacting them. Following the new regulations about data protections, I could not get the coordinates from the event organizer. However, as I had the names of the participants and knew their specialization of mediation, I started looking for them via LinkedIn. I sent private messages through that professional platform, introducing myself, giving a brief description about my research and requested to them if they would be willing to cooperate by participating through interviews during their stay or while attending the conference in Luxembourg. Some of the participants on the list whom I could not get hold of through LinkedIn, I googled their name, found their office number and contacted them directly. Certain were active on Facebook, I sent friend requests along with a personal note about my interest in getting into contact with them. Three out of

ten of the participants are from Luxembourg but have different cultural background while the remaining seven are international.

I intentionally chose participants from different locations and diverse cultures as I wanted to have an insight about their respective practices and know whether their cultural background influenced their perception to the mediation profession. Most importantly, it was to note their views and interpretation of the core concept of the neutrality and its application at practice despite they hail from different countries. Previous empirical researches have been done to depict neutrality in the mediation profession, I am researching same but in a broader geographical context contrary to those effected. A summary of each of the ten participants and my endeavor of reaching to them to participate for the study is provided in the next paragraph.

Michèle Vatz Laaroussi was my first participant I interviewed during the forum. She holds a PhD in intercultural psychology and is now a retired associate professor at the school of Social Work at the University of Sherbrooke, Canada. She is one of the founders of the master's degree program in intercultural mediation at the University of Sherbrooke, the only one of its kind in Canada. Her research is focused on immigration and social action with immigrants. Michèle Vatz Laaroussi is interested in family dynamics in immigration and local dynamic in the face of cultural diversity outside the major cosmopolitan centers. She initiated the International Network for Research on Immigration outside major centers and is a member of the Centre d'études ethniques des Universités de Montréal (CEETUM) as well as the pan-Canadian research network, Pathway to Prosperity. She is also President of the International Association for Intercultural Research. Her latest research focuses on the geographic and social mobility of immigrant and refugee families in Quebec and Canada, English-speaking immigrants and refugees upon arrivals in Quebec, the reception and the integration processes of women and refugee families, and divorces in migration and mediations between women of different origins and religions. The latter animated a workshop

during the conference and spoke about the ambitions and the realities of intercultural mediation at a round table along with Fadhila Mammar who was also present at the event.

Fadhila Mammar holds an MA in Migration, Refuge and Intercommunity Relations from the Universidad Autónoma de Madrid, as well a BA in Spanish Language and Literature from the Université de Langues et Lettres de Grenoble (France) as well as a Diploma in Intercultural Mediation from the Universidad Autónoma de Madrid. Fadhila Mammar is a free-lance intercultural mediator, and conflict resolution consultant and trainer. Nowadays she is specialized in training civil society actors and native people on peaceful conflicts management and as mediator on intercultural and land conflicts in South America, especially in the Andean region. She is a senior consultant for the Toledo International Centre for Peace (CIT pax) in its project 'Mediation and Conflict Resolution from a Gender Perspective', for the Spanish Moroccan Initiative on Mediation in the Mediterranean. Fadhila has been the manager of the Intercultural Social Mediation Service (SEMSI) of Madrid Council from 1999 to 2009. She also gives advice and carries out assessments on cultural diversity management and conflict resolution to foundations, NGOs and to regional authorities and political administration. Mammar resides and as well as exercises intercultural mediation in Madrid, Spain.

In line with intercultural mediation debates during the conference, Liliana Kremer from Argentina talked about Public dialogues, a strategy for Intercultural mediation. Public dialogue is an inclusive process which involves willingness of participants to communicate and change perspectives. It requires self-reflection and not just talking to address the symptoms of the crisis on the surface but rather address the roots. Liliana Kremer holds a PhD in Socio-Agricultural Studies, she is mediator, Professor and main researcher in Education and Social Work at the National University of Cordoba in Argentina, and associated Professor of Social Work at the University of Sherbrooke

(Quebec, Canada). As an active member of the Chaco Women's Collective, and a member of the Board of Directors of the Association of Intercultural Research (ARIC), and a member of the Canada-Cordoba Centre, she develops leadership and training activities that use action-research methodologies. Her expertise lies also in citizen and intercultural mediation, and dialogue and the facilitation of public debates. Liliana Kremer is involved in promoting citizen mediation as a means of deploying more respectful and inclusive relationship as a method of conflict prevention in social, cultural, territorial and academic fields. She is the proponent of Transformation and Appropriate Conflict Resolution Approach.

Similarly, Lurdes Serra animated during the forum a workshop about intercultural mediation as part of major infrastructure projects. Lurdes Serra holds an MA in European Social Law and a master's degree in Mediation. Lurdes Serra is an Africa Centre for Dispute Settlement qualified mediator for company-community mediation in complex environments. She started working at the EIB (European Investment Bank) in 1986 where she has held various positions mostly related to social issues. Most of her career at the EIB has been linked to conflict resolution and dealing with staff issues. She was the Spokesperson of the Staff Representatives between 2003 and 2006. She was the Corporate Responsibility team leader between 2007 and 2011 following which she joined the Human Resources Directorate where she worked on a project aiming at improving social relations in the Bank and was responsible for ensuring the liaison between the Directorate and the Staff Representatives. She joined the Complaints Mechanism in 2013 for the position of Senior Mediation Officer, where she has managed all mediation processes since then. She has also managed all other issues related to mediation within the Complaints Mechanism and has dealt with complaints related to human resources management or social issues.

Social issues discussions often emerged on the second day of forum. One workshop dealt with Intercultural mediation in diverse fields, which is where I got the opportunity

of establishing contact with Dr Kutlik. Dr Kutlik discussed intercultural mediation in a health care facility focused on the Roma minority. When I requested for his participation to my research, he promptly accepted. A native of Slovakia Dr Frantisek Kutlik is a mediator, conciliator, lawyer and Dispute System designer. He has over 10 years relevant dispute resolution experience and practice in mediation/arbitration. He graduated from the Comenius University in Bratislava, Faculty of Law. In 1988-1989, he finished his postgraduate studies in journalism specializing in foreign policy at the Charles University in Prague. He was appointed mediator in 2004 by the Government of Slovakia. Mr Kutlik is member of the Executive Board of the European Mediation Network Initiative and vice-president of the World Mediation Forum. He is also the president of the Slovak Institute for Mediation. Dr Kutlik is an active journalist, lecturer and published author in the field of mediation.

During the same day I met Anne Catherine Salberg at the coffee break. She was one among the three speakers of the “mediation in interculturality situation: conflicts, methods and prevention” workshop. Anne Catherine Salberg addressed the place of interculturality in conflict management. She is a sworn mediator registered with the tables of the civil and penal mediators of the state of Geneva. Her areas of expertise in mediation are labors, family, intergenerational, intercultural, neighborhood, author victim and administrative. Anne Catherine holds a European Masters in Mediation from IUKB Sion Barcelona. She is mediator, adult trainer and lawyer by profession. Salberg is the president of the Recognition Commission of the Swiss Federation of Mediation associations (FSM-SDM). She is also a member of Swiss Association of Family Mediation (ASMF) and the Swiss Federation of Mediation Association (FSM).

I also met another participant in person that day, Mr Lascoux also holds a president position in the mediation field in France. I reached out to this participant prior to the forum through LinkedIn. I had been following his posts on that platform for a while. I sent him a message explaining about my research and requesting him to participate. In fact, he was my first participant for this research. Due to misinterpretation of messages

one Sunday morning I received a phone call from him asking me to conduct the interview right away which I did. Jean Louis Lascoux initiated professional mediation and the right to mediation in France in the 90's. In 1999, he redesigned the SIC (Strategies and Interactions in Communication) model. This model identifies the transverse competencies of mediators, sets out the invariant of mediation and elaborates specific training for general mediators. Lascoux directs the training of professional mediators (companies, families, social life) that can enable candidates to obtain the certificate of Proficiency for the profession of mediator, CAP'M, issued under the auspices of the Professional Chamber of Mediation and Negotiation in France. Jean Louis Lascoux is also the president of the professional school of mediation and negotiation (EPMN). He has been designing and running seminars on human relations for over twenty years, He also acts as a negotiator.

The last participant I interviewed before the closing of the conference was Brunhilde Calewaert who represented Effet Mediation Asbl Belgium. She is an accredited general and family mediator from the Federal Mediation Commission. She hails from Brussels. Calewaert has a license in Criminology and a Bachelor of Psychology from the University of Brussels. She also did a training on the Rights of the Child – International Convention on the Rights of Child at the IUKB Geneva University. Brunhilde Calewaert is member and director of the Belgian Union of Professional Mediators (UBMP) since 2006.

I met my other informants in other contexts than the forum. For example, I in an afterwork organized by Association des Mediateurs Agrées (ALMA) some while ago, I got the opportunity to meet Elizabeth Ribeiro. Elizabeth Ribeiro is a social assistant and accredited mediator at the Centre de Mediation Asbl in Luxembourg. She has Portuguese origins and is a resident at the Grand Duchy. Ribeiro has a university diploma in mediation (MA in Mediation) and European Certificate in International Family (CEMFI). At the afterwork we exchanged contact. One week later I met her at her office and had a fruitful exchange about her mediation practices in Luxembourg.

She also participated at the forum representing the Centre de Mediation. The tenth participant wishes to be anonymous and didn't want to disclose his identity because of the institution where he works in Luxembourg. The interviewee holds a diploma in architecture in Egyptology. He did a training in mediation. The latter works in the field of intercultural communication, translation and is currently doing a masters in Mediation. He claims he is an intercultural communication officer and his visiting card of the institution he represents bears his title as intercultural mediator. He is of Islamic religion and resides in Luxembourg since a couple of years. Amongst his job description he facilitates migrant's integration in his adopted country.

## **7.7 Transcribing**

Once all interviews were collected, the next phase I had to proceed to was transcribing. Transcribing consists of writing the oral data into words. Basically, it is making a written copy of the interviews that I recorded. This was a very time-consuming phase during this research. I conducted ten interviews. Two were in English and eight were in French. It was a challenging task for me as my French level is medium. After transcribing it became more challenging as I had to translate the French transcripts to English. I had to bear in mind that the original version of the transcripts may be altered. According to Duranti (2006, p.308), he argues that "a recording first and transcript later should not be presented or seen as attempts to reproduce the entire original experience." In his text, he highlighted that a transcript is an efficient tool to identify specific patterns or cultural practices within a spoken interaction. Once, I transcribed and translated the data, the data set was ready to move to the further step of the process that is coding and analysis.

## **8. THEMATIC ANALYSIS**

### **8.1 What is thematic analysis?**

Thematic analysis is a simple approach to use for novice researchers who are unaccustomed with some complex types of qualitative analysis. It allows for flexibility in the researcher's choice of theoretical framework. While some other methods of analysis are closely linked to specific theories, thematic analysis can be applied with any theory a researcher chooses. Through this flexibility, thematic analysis allows rich data detailed and complex description of the data. Thematic analysis is essentially a method for identifying and analyzing patterns in qualitative data (Clarke and Braun 2013).

Braun and Clarke (2006) view thematic analysis as theoretically flexible because the search for, and examination of, patterning across languages does not require adherence to any theory of language, or explanatory meaning framework for human beings, experiences or practices. This implies that thematic analysis can be applied within numerous theoretical frameworks, from essentialist to constructionist. According to them thematic analysis seeks "to provide a rich and detailed, yet complex, account of the data" (p.78). This type of analysis consists of organizing data in detail, allowing the researcher to go further into analyzing and interpreting the data in relative to the researching topic. Nevertheless, Braun and Clarke (along with Taylor & Ussher, 2001) believe that the terminology of themes emerging or being discovered is too passive, which ignores the researcher as an active and influential part of the research. It seems there need not be an alignment between the theoretical framework and the methods that the researcher chooses to use in relation to what he or she want to know. Thematic analysis seemed apt for this research analysis.

## 8.2 Reflections before and throughout the research

Reckoning a theme is extremely important in the data. A theme represents an extent of patterned response, answer or meaning that is fundamental to the research question. There need not be precise number of instances of the theme across the data set for the theme to be considered significant. A theme does not need to occur often in the data to be considered important, but the researcher judgement is necessary to determine what a theme is. Rigid rules will only limit the research thus the researcher need to allow certain flexibility. In relevance to the research question and the area of interest within the data so as to provide a more detailed and nuanced account of it, thematic analysis provides for “a rich description of the data set, or a detailed account of one particular aspect” (Braun and Clarke 2006 pg. 83).

It is important to note that the themes or patterns generated in a thematic analysis can be identified in one of two primary ways that is in an inductive ‘bottom-up’ (Frith & Gleeson, 2004) or in a theoretical or ‘deductive’ or ‘top-down’ way (Boyatzis, 1998). In the inductive approach the themes are based in the data itself and this approach does not attempt to fit data to pre-existing themes or framework. In contrast the deductive approach i.e. the theoretical thematic analysis is driven by preselected framework of the researcher’s field of interest. It tends to provide less detail of the overall data but emphasizes on themes or features of the data. Deductive approach is thus more explicitly analyst-driven while inductive approach is data-driven.

Consideration to the level at which themes are to be identified is essential notably at a semantic (explicit) or latent (interpretative) level (Boyatzis, 1998). Thematic analysis focuses solely or mostly on one level. With a semantic approach the themes are identified at explicit level, that is nothing beyond what the participant has said is taken into consideration. At this level of analytic process, the progress is from description to interpretation of what has been identified in the data that is its meanings or its implications (Patton, 1990). On the other hand, thematic analysis at the latent level explores underlying meaning, ideas, assumptions that shape the semantic content. It is interpretive. It seeks to identify the features to give distinct form and meaning.

Consequently, as the themes are developed it brings forth interpretive work as theory is being built together with the themes. The latent approach analysis is founded in constructionism (Burr, 1995). Thematic analysis at the latent level explores underlying meaning, ideas and assumptions. In addition, it is interpretive as it seeks to identify the features to give distinct form and meaning. Consequently, as the themes are developed, it brings forth interpretive work as theory is being built together with the themes. The latent approach analysis is founded in constructionism (Burr, 1995). The epistemological stance of the constructionist framework does not focus on the presumed reality visible in the data but rather focuses on looking at how a certain reality is generated by data.

The final step before starting with the thematic analysis is to consider the question or questions of the qualitative research. There should be clarity to the research question or questions. For instance, whether there is a general research question for the whole study or multiple questions that will lead the research. The questions can be broad (explanatory) or narrow but may inform broad overarching question. For instance, questions used in interviews within the data collection process of my project were “questions that guide the coding and analysis of the data” (Braun & Clarke 2006 pg.85). As a novice analyst while doing the thematic analysis my task consisted to search across the data set for patterns and themes.

### **8.3 The 6 steps of Thematic Analysis**

Braun and Clarke (2006) provided a six-phase guidance which is an effective framework for conducting thematic analysis. The first step in any qualitative analysis is the reading and re-reading, a continual reading process of the transcripts in order to familiarize with the data corpus. As I collected the data via interactive means such as conducting semi structured interviews, I had some prior knowledge of the data. I transcribed all the ten interviews done for this research into a written form in order to conduct the thematic analysis.

Researchers argued that transcription of a verbal data is “a key phase of data analysis within interpretative qualitative methodology” (Bird 2005). Lapadat & Lindsay (1999) state that transcribing is an interpretative act, a key to analysis where ideas begin to form. The level of details in transcripts depends on the level of analysis that will be conducted. Thus, it should always be verbatim, retaining the original meaning. This process of reading and re-reading of data was time consuming but it was an excellent way to retain information required and to be familiarized with for the later stages.

The phase two consisted of organizing the data in a meaningful and systematic way to generate initial codes. Coding is a common element of diverse approaches to qualitative analysis for instance content analysis, grounded theory analysis, discourse analysis or interpretative phenomenological analysis (IPA). This process of generating initial codes involved creating terse labels for essential aspects of the data relevant to the research question leading the analysis. The codes usually identify a peculiarity of the data either semantic or latent that appear to the analyst and is referred to “the most basic segment, or element, of the raw data or information that can be assessed in a meaningful way regarding the phenomenon” (Boyatzis, 1998 pg.63). Usually at this instance the themes were often broader. The coding depends on whether the themes are theory driven or data driven.

For the purpose of this research the coding was data driven and the coding depended on features of the data set. The coding was done manually such as writing notes on the project transcripts, highlighting in colors segments of data item for data extract<sup>4</sup>. Braun and Clarke (2006) advised (a) to code as many themes or patterns as possible (b) to code inclusively to ensure the context of each extract is not lost and (c) take into consideration that one extract can have multiple codes or different themes. As no data set is without contradiction it was very important to acknowledge and note

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<sup>4</sup> Data extract refers to an individual coded chunk of data that has been identified and extracted from the data item of the data corpus.

contradictory extracts. Overall, this phase entailed the production of initial codes from data and reduced lots of data into small chunks of meanings.

The task for phase three was the search for themes. At phase three, my data had been coded and assembled to a long list of different codes. This stage was focused on the broader level of themes and involved sorting the different codes into possible themes. A theme was characterized by its relevance. As themes are made up of subset of codes thus some codes may form overarching themes or sub-themes or be miscellaneous codes. At this third phase, I used an excel sheet to sort out the different codes into themes. The aim was to examine the codes and see if certain codes could be fitted together into a main theme or into a sub-theme or was irrelevant at that stage thus be classified miscellaneous or outliers. At this stage as the codes were organized in broader themes, there was a point of importance of individual themes in relation to the research question.

Stage four involved reviewing and refinement of themes. Some of the themes usually collapse into other themes whereas some of the themes are distributed or divided into separate smaller components at this stage. This phase has two levels. Level one was about reviewing at the level of the coded data extracts. It involved re-reading of all the data extracts that fit into each theme to ensure that all the data forms a coherent pattern. If some of the data did not fit into the theme at this level, then further refinement was needed. Once the data fit in each of the theme coherently level two was pursued. Level two of the phase four consisted of doing the theme work within the entire data set. This process involved re-reading entire data set to determine validity of individual theme but also to code for additional extracts that might relate to themes if found. Each theme in relation to the data corpus needed to be considered. At this stage a thematic map helped to visualize the relationship between the themes. Therefore, at this phase of my analysis, I gathered all data that were relevant to each theme, cut and paste them to another excel sheet for reviewing, modifying and developing the preliminary themes that were identified, and color coded them. The following step was defining and naming the themes.

The fifth phase captured the essence of what each theme was about and determined what aspect of the data each theme captured in order to create an overall narrative with all the data. It was very important to identify what was interesting about content of the data extracts rather than paraphrasing it. Each theme was to be analyzed and an individual narrative was to be created. It was very important to consider that the narrative of individual themes fit into the overall narrative in relation to the research question or questions. Overlapping of themes needed to be considered for refinement of initial themes and sub-themes. At this point the themes could be officially named in the final analysis. The names must be concise, punchy and immediately give the target audience a sense of what the theme was about. During this phase of analysis, it was my responsibility to bring forth to you: what the theme was saying? If there are sub-themes, how do they interact and relate to the main theme? How do the themes relate to each other?

The last phase involved the final analysis and writing up of the report. The report should be a concise, coherent, logical, non-repetitive, and interesting account of the narrative of the data told within and across themes. The write up must be supported by evidence of themes within the data extracts. Such as they should be vivid examples from the data which captured the essence of the point being demonstrated. In this last step of conducting the thematic analysis I attempted to convey the complex story of my data in a simple and meaningful way in hope to convince my audience of the merit and validity of my analysis. Extracts have been illustrated to support my analytic narrative.

## **9. ANALYSIS**

Using the guiding principles of Braun and Clarke, the analysis of the data was also performed with the help of the software F4 analyse. F4 analyse is one of the new generations of qualitative data analysis packages which support analysis of qualitative textual data. It is a software which assists researchers to read RTF files, structure references, note down findings, compare statements and create summaries,

interpretations, or concepts. In addition, all data was also entered into a Microsoft Excel spreadsheet for further refinement of analysis. Once all the data was categorized under their respective themes in the F4 analyse software, I created an excel sheet with the participants name and the themes. I copied their narratives generated with the software under the respective themes in the excel sheet. Thus, for each theme, I had a specific page on excel with the participants data.

As my research study focused on the neutrality posture of the intercultural mediator, after reading and re reading the data set, I searched across the data set for patterns related to these themes. I came up with five themes which represent the five pillars of my research.

- The perception the professional had of neutrality in practice (perception of neutrality in practice)
- How they conceptualized neutrality (concept of neutrality)?
- How neutrality worked during the mediation process in their view (neutrality during mediation process)?
- What sorts of issues arose in relation to neutrality (neutrality as an issue)?
- What ethical questions surged because of neutrality (neutrality in the codes of ethics)?

The table below demonstrate the number of relevant codes which were extracted per theme per participants in the F4 analysis software. The names of the participants have been replaced by roman numbers in order to keep their anonymity during the analysis as agreed with them. During this coding process, I identified the important features of the data, examined the codes and then collated them into potentially relevant themes.

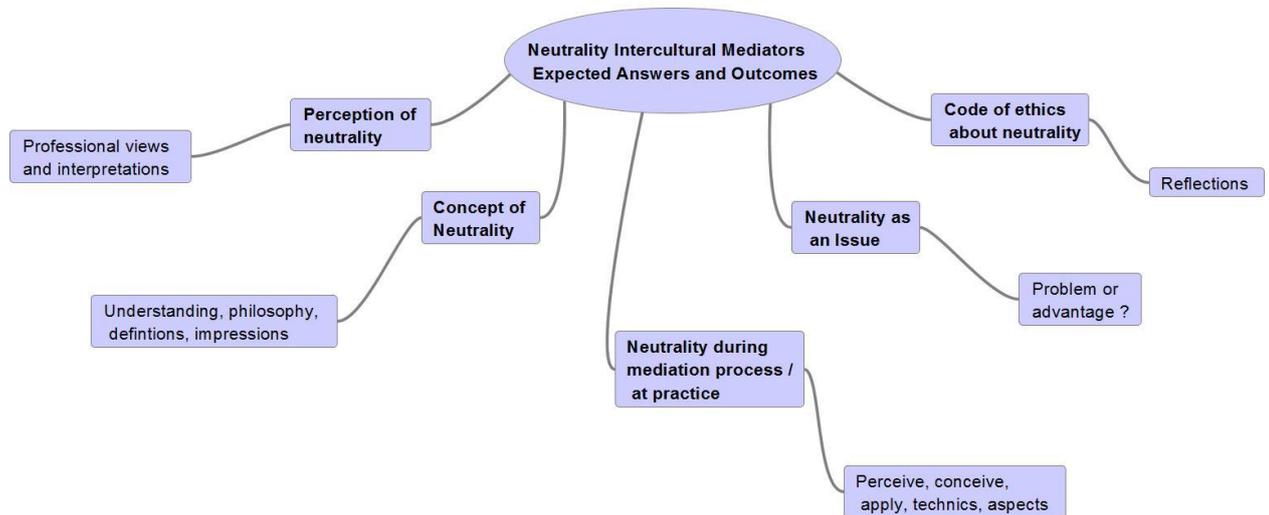
**Codes Extract table**

<b>Participants/ Themes</b>	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>	<b>V</b>	<b>VI</b>	<b>VII</b>	<b>VIII</b>	<b>IX</b>	<b>X</b>
Perception of neutrality	5	11	5	5	2	3	2	12	13	5
Concept of neutrality	2	4	1	2	1	1	1	7	6	3
Neutrality in practice	3	4	1	4	2	0	2	1	4	3
Neutrality as an issue	2	10	1	5	2	2	2	8	6	3
Code of ethics – Neutrality	1	2	1	0	1	1	1	0	2	0

**Table 1:** Extracted codes table for analysis

I also deemed important at this stage to do a mind map as shown below in order to facilitate my work and the writing at a later stage and to review the viability of each potential theme. The themes were refined to determine whether they could tell a persuasive narrative about the data, one that answered the research question. The next sections describe the findings of the themes. They are supported by excerpts attributed to the different interviewees. The numbers are used to maintain their anonymity and the paragraphs correspond to where the excerpt was in their respective transcripts. I also deemed important at this stage to do a mind map as shown below in order to facilitate my work and the writing at a later stage and to review the viability of each potential theme. The themes were refined to determine whether they could tell a persuasive narrative about the data, one that answered the research question. The next sections describe the findings of the themes. They are supported by excerpts attributed to the different interviewees. The numbers are used to maintain their anonymity and the paragraphs correspond to where the excerpt was in their respective transcripts.

**Figure 1: Neutrality posture of Intercultural Mediators**



### 9.1 Perception of neutrality in practice:

I first explored how neutrality was regarded and interpreted by the participants by asking the question: How do you perceive neutrality in mediation? Based on the interviews the mediators had diverse views. Below, I show excerpts from different interviewees (II, III, V, VI, IX) to illustrate examples which were persistent in the data set. The excerpts show that each intercultural mediator had their own perspectives regarding neutrality and how they perceived it. One first interesting point to note is that many of them did not like the term neutrality and preferred to use instead another term: multi-partiality

#### Excerpt (1)

*“ I prefer to use the term multi-partiality because I consider as a woman for example already uh you have another posture maybe from someone else so it is not already neutral your personality all that brings to mediation must also bring things in the result can be eh*

*therefore or in the communication of the people therefore I prefer the term multi-partiality why because I consider that I am for one and the other my objective to me is not to say to be more for one or to be more for the other but my goal is to be able to understand both.” (Interviewee II, Paragraph 18)*

### **Excerpt (2)**

*“..ok I come back a little bit to the same thing I refuse the term neutrality I prefer that of impartiality or multi-partiality which is that I am with you I am with you eh for me that is the central is ethics” ( Interviewee III, Paragraph 39)*

### **Excerpt (3)**

*“ ..the mastery of intercultural mediation by saying that for me neutrality does not exist and that an entirely neutral mediator will not be a good mediator for me he must develop a lot of empathy towards person with whom he is and neutrality does not allow develop in any case for me to develop empathy so on the contrary we must get closer to each one we must be very close and therefore I was talking about multi-partiality this morning, for me it is a concept much more meaningful eh that is to say that we are partial for each of the parties.” (Interviewee V, Paragraph 34)*

### **Excerpt (4)**

*“I think I am convinced that we cannot mediate if there is not an intercultural dimension meaning because for me interculturality is a way of life to live yours to others so you can't do any mediation we call it multi-party, multi-partiality, we call it multi-sectorial we call it that a sectional part if you don't take into account interculturality because each of the actors that form part of the territory have cultures and personal identity, individual singular addresses so it goes without saying that you cannot work with problems you work with people who have problems so it is always intercultural you see you cannot do any mediation that is not intercultural”( Interviewee VI, Paragraph 10)*

### **Excerpt (5)**

*"I call neutrality is that he has no opinion on the solutions that people have to find he has no opinion on what people has to find (...) it will multi-partiality" (Interviewee IX, Paragraph 36)*

Some interviewees went further and mentioned that, for them, in intercultural mediation neutrality was more like complete mysticism. They asserted that it was therefore a mistake to use this term. For example, interviewee X states that:

### **Excerpt (6)**

*"Interviewee X: It's a total mistake. It's a complete mystic. Because let's admit, for example, to what I see about conflicts where there is a Hindu community and there is a Chinese community.*

*Interviewer: Yes*

*Interviewee X: So, the mediator intervenes and then he says, "Ah I am a Hindu, so we should have a Chinese mediator also so that we can get things across (co-mediation). Here he introduces a field of incompetence. He identifies a field of incompetence in him. Tell yourself one thing, it's that, two incompetent sits neither is a competent. It is not by co-mediation that we are going to help people, with two incompetents, that we will help people to get out of a conflict situation. The mediator himself, his neutrality, you talk about neutrality, I will say beyond neutrality that is impartiality also there that we are talking about." (Paragraph 53 - 55)*

Interviewee X further underlines that neutrality should be viewed only in relation to the outcome and stems from independence from impartiality by explaining as follows:

### **Excerpt (7)**

*"Interviewee X: See that's what I was telling you before the confusion between neutrality and impartiality, it exists. Neutrality is in relation to the solution; impartiality is in relation to the parties and all that they convey. So, it's important to distinguish between these two*

*postures. Because we are going to talk here, when we talk about intercultural, we speak falsely, by mistake of neutrality of the mediator.*

*Interviewer: Okay, please elaborate*

*Interviewee X: Does the mediator know how to be impartial? That is the whole issue. Its impartiality must be cultural.*

*Interviewer: Yes*

*Interviewee X: it must be religious, political. This is in the relationship to values, to what are called values, positions, to ideologies. That is what the mediator needs to be aloof. If it is not distant from these conceptualizations, to these representations of the world, hmm it will not be impartial, and therefore it will not be neutral. Neutrality stems from the independence of impartiality. " (Paragraph 59 - 65)*

Alternatively, another mediator, interviewee VIII views neutrality through a VISC model: “V” for voluntary, “I” for impartiality, “S” for self-determination and “C” for confidentiality. This model is adopted during mediation process to reduce the risks of counteractions and being biased. Interviewee VIII affirms that if the VISC model principles is applied correctly, she may have a neutral position. The participant elaborates on VISC model as such:

**Excerpt (8)**

*“Interviewer: VISC as initials, can you please expand it in your own words?”*

*Interviewee VIII: Yes, V is for voluntary, so the parties must be volunteer, and they know that they can withdraw. If they think even the mediator is the meet, the mediation team is not respecting neutrality, they can decide to stop the mediation. So that's one important thing. And that has to be made clear to all the parties at the outset of the of the mediation, the I is for impartiality, meaning that you don't take sides, you don't decide these people is right, or this person is wrong. Or you should go for this. To take that decision*

*or that other decision, you must do your job as mediator, but you don't take sides. So, if you respect that, it's another way of trying to protect the neutrality, the S is for self-determination. So the parties they decide they decide how they want the process to be organized, because that's what we always do and that's why in my mediation, the preparatory phase is so important, they decide on the process they want to put in place, they decide on the issues they want to discuss, and they decide on the solutions they want to find. And they then participate on the implementation of those solutions. So, this is self-determination is also we must respect, and the C is for confidentiality. And why is this important in the context of neutrality. Because in some contexts, you can even have risks of retaliation. You have, we are dealing most of the times with the representatives, for instance, of companies, and these representatives are employees, they could risk their jobs as well. So there are a number of things that could if we breach the confidentiality, and if the discussions that are taking place at the mediation table, come out of the context, where people could have risks, face threats face that then wouldn't allow them to, to speak freely. And that's why I think, giving them the possibility to respect the confidentiality in and us as mediators also respecting that we won't breach that confidentiality, we are also protecting them. And we are also showing that we are doing that for both sides, and we are being neutral. So that's I always consider that if I respect these four principles, I'm pretty sure that I might have a moral of neutral position" (Interviewee VIII, Paragraph 16 - 17)*

Mediators also perceive that the neutrality of the mediator relates to the fact that the mediator has no opinion about the solutions that the conflicting parties must find. Therefore, for them they are neutral to the outcome. They are in a sense again multi-partial as excerpts from interviewees II, IX and X show:

**Excerpt (9)**

*"I would say that a mediator must be neutral in the agreements that is to say the agreements of the people, the mediator must not intervene how to say about you if he must remain neutral towards this but in the posture of neutrality I find it too hmm.. too much I*

*prefer to use the word impartial or why not multi-partial.”  
(Interviewee II, Paragraph 16)*

**Excerpt (10)**

*“...what I call neutrality is that the mediator has no opinion on the solutions people must find, he has no opinion on what has been found. He is neutral to the solution.” (Interviewee IX, Paragraph 34).*

**Excerpt (11)**

*" I'm neutral compared to what people have to find as a result in mediation I have no opinion on it eh if they say that neutrality is not having the opinion but I am multi-partial but me as a person I cannot be anyone other than what I know is and it's my only way I'm great I speak fast I speak loudly. I, necessarily color the perception that people are going to have of me " (Interviewee IX, Paragraph 36)*

**Excerpt (12)**

*“Neutrality is to the solution...” (Interviewee X, Paragraph 59)*

Since mediators will be independent from institutions, employers or conflicting parties, they have a relation of multi-partiality towards the parties involved in the mediation. Therefore, they are neutral with regards to the outcome of mediation. Interviewee VII and IX further state that they are not answerable to institutions or employers and thus can be considered as independent. They are independent from authorities and neutral to solutions:

**Excerpt (13)**

*"Interviewer: So, you say the mediator is neutral compared to the solution completely*

*Interviewee IX: That's it, he is going to be multi-partial towards the parties and he is going to be independent of the institutions so he is independent of the institutions or constituents the people who send him some for example I who work with a lot of the penal matters, I receive mediations from the prosecutor I receive mediations from the juvenile court I receive mediations from it's never mandatory in my*

country. It's always it's always the judges negotiate with the parties whether they want to go to mediation or not so there is no mandatory mediation but I have no account to the institutions so I am independent of the institutions I am neutral compared to what people have to find as a result in mediation I have no opinion on it eh if they say that neutrality is not have the opinion but I'm multi partial." (Interviewee IX, Paragraph 35 - 36)

#### **Excerpt (14)**

*"Interviewee VIII: Yeah. Already, as I said, the difference between neutral and impartial I also struggle with it. I don't really know what is meant by that. I have I think I have found my own definition of neutrality in this VISC model that I think is so nice. And I think it works in practice. Because I have experienced it, so I think it works. But if I explain that someone else will, will that person also understand neutrality in the framework of this model or not? I'm not sure. So, I already struggle with that. Then I struggle with the question of independent because that's what most people tell me. They tell me but you are not independent. You are being paid by*

*Interviewer: hmm by this organization*

*Interviewee VIII: by the financier. Yes. I'm being paid by the financier but when I'm there dealing with the project promoter, for instance, and the communities, I don't give a damn if it's my employer who is financing that what I'm concerned with is that these community they have a problem, this promoter, he has a problem solution and they have to reach a neutral solution for their betterment." (Interviewee VIII, Paragraph 86 - 88)*

Though some mediators consider that the mediation outcome should be neutral, other mediators fear that if the term neutrality is applied too literally, there is a risk that the mediator ceases to exist in the mediation process. He becomes completely transparent, which is not an outcome interviewee VI view positively:

### **Excerpt (15)**

*" that's what I think is really if we talk in literal terms of neutrality it risks becoming transparent eh without flavorless smell (laughs) is what a mediator for me, no, the mediator uhh must have an existence it must not be transparent" (Interviewee VI, Paragraph 34)*

In addition, other professionals argue that one cannot be totally neutral by the simple fact that everyone differs in terms of gender, language, culture. From this perspective, the mediator can never be fully neutral, as Interviewee IX proposes:

### **Excerpt (16)**

*"We cannot be neutral, neutrality is absolutely impossible due to the simple fact of who we are of our way of expressing ourselves by speaking, our sex, our gender, our culture, we are something and cannot depart from who we are. Therefore, from there, the mediator cannot be neutral as it is an impossible mission... .." (Interviewee IX, Paragraph 34)*

Mediation also cannot to be viewed as a mechanical process where a button is pressed, and the mediator enter mediation but rather, it is a process with a desire for understanding and a focus on active listening. The mediator will see if he understands better one or the other party and hopefully with his interventions, he or she can make parties understand each other and make them change perspectives towards one other. Interviewee IV thus ascertains that:

### **Excerpt (17)**

*"Neutrality does not mean that you will switch on a button and state that here I am, I enter in mediation and I will correctly manage a mediation process. It is not mechanic. It is rather my will that I with a voluntary intention to understand, decenter myself according to what I will hear and will focus in the active listening. Then only I can make them see different views" (Interviewee V, Paragraph 20)*

The mediators who viewed neutrality as impossible, nevertheless pointed out that it is an ongoing work to be performed on oneself, a constant job for the mediator to be a blank white page. This metaphor of the white page is a recurrent one. Both interviewees I and IX spoke about it:

**Excerpt (18)**

*" Well I will say that we are really in the paradox neutrality it's hmm a page quite white but until you can reach the perfect white if I put four five sheets next to the other we'll realize that they have different whites then where is neutrality one tends towards neutrality. No one can have the audacity to say I possess total neutrality so why people sometimes prefer to talk about multi-partiality what I understand in is that as one cannot have the purest white and well we'll say we'll go in all the odds so I tell myself I think on a case-by-case basis in situations I have to feel what drives me to be as empathetic as possible if what drives me is to go towards a multi-partiality so I'll open if on the other hand I feel that there is some difficulty I will try to be the most empty when I say empty it's a form of neutrality" (Interviewee I, Paragraph 18)*

**Excerpt (19)**

*" Interviewee IX: No it's impossible on the other hand it takes all the time to work it's a constant work of the mediator um to be this blank page I do not know if you know this French author xxx xxxxx very important for mediation he says the mediator is like a movie screen is a blank page on which people project so I try to be this white place or people can project but I'm I can be tired I can I can all of a sudden felt that someone annoys me or more or point frankly this d soul who speaks all the time and then her husband never says anything sometimes she annoys me " (Interviewee IX, Paragraph 68)*

Apparently if mediators interfere subjectively in the mediation process then they are subjective. If they employed objectivity, they are then considered as an object of others, an object of society thus they can be objective. Therefore, interviewee VII believes that

if mediating means engaging subjectivity and emotions, the reality of people with their dreams and miseries in consideration, one cannot talk of neutrality in mediation. The mediator further on states:

**Excerpt (20)**

*" it's the Harvard line if you want it's the most common line in my country and I thought how you can separate the problems from the person if it's the person who has problems what interests us is the person and not just the person the links that has this person with another person or in his community or in his territory how one can write a poem without words it's the same thing you cannot work a problem separate from the person it's really not important the problems what is important it is the ability of people who takes care of his problem or his problems and become aware that he is also able to take charge of the answers to these problems so never could I be neutral" (Interviewee VII, Paragraph 20)*

In general, we see from the excerpts that a trend emerges. This trend is that a professional who would be a completely neutral individual would not be a good intercultural mediator, cannot be a good mediator as the mediator must develop a lot of empathy towards the person with whom he works. Neutrality does not allow to develop the necessary empathy. On the contrary, the interviews show that the professionals share the view that the mediator must get closer to the parties. If we compare the perspectives the professionals have of neutrality, we however also see another trend. The professionals seem to be in strong agreement that the neutrality concerns more the outcome: the mediator should not influence opinions or the result of the mediation.

The perception the participants have of neutrality allowed me to have a better understanding of how they view this notion. Many also consider this notion to be not be a completely useful concept. In the next section, I therefore explore the concept of neutrality.

## 9.2 Concept of Neutrality

With exploring the concept of neutrality held by the professionals, I wanted to understand the philosophy of the concept of neutrality mediators had in general, and whether their vision and notion of the term neutrality is the same when applied to the mediation process. I also wanted to see how closely connected this was with the ethics of mediation. In sum, I anticipated to see whether the mediators understood and knew the term “neutrality” and its proper meaning in mediation or whether they used it as a broad concept, ambiguous or not for the profession. Some of the responses imply some mediators had their own definitions of the term neutrality while others only had vague impressions about it. I explore the different options below.

First, some professionals referred to the concept of neutrality as an ineffective concept (e.g. interviewee IX) and even bothersome concept (e.g. interviewee II):

### **Excerpt (21)**

*“Interviewer: So, if we talk about neutrality in mediation. What is the concept of neutrality for you?”*

*Interviewee IX: This is not a useful concept in mediation*

*Interviewer: what makes you say that is it possible to elaborate?”*

*Interviewee IX: Because we can't be neutral neutrality is absolutely impossible (..) the simple fact of who we are our way of expressing ourselves to speak our gender our culture we are something and cannot part with who so from there the mediator can't be neutral it's an impossible mission what I call neutrality is that he has no opinion on the solutions that people need to find he has he has no opinion to have on what people need to find” (Interviewee IX, Paragraph 30 - 34)*

### **Excerpt (22)**

*" Interviewer: Okay, if I'm talking about neutrality what does the concept of neutrality mean to you?*

*Interviewee II: Then I will tell you that in mediation the word neutrality bothers me because for me neutral it means it must not have influence" (Interviewee II, Paragraph 13 - 14)*

Secondly, as we already saw before, some mediators did not like the word neutrality and preferred to speak about multi-partiality. Mediator I have said that the concept of neutrality is an important element for the mediator but does not like the word neutrality and thus opted to speak about multi-partiality. She underlines that it is a paradox.

### **Excerpt (23)**

*"Interviewer: What is the concept of neutrality for you?*

*Interviewee I: So, at the same time we are in the middle of a paradox, it is a paradox. Since neutrality is a very important thing for the mediator some do not like the word neutrality as I and prefer to talk about multi-partial so i can and am to be multi-partial neutrality" (Interviewee I, Paragraph 11)*

Likewise, as also discussed above, Mediator IX considers the concept of neutrality as not sustainable. For her, one cannot be neutral with regards to the outcome.

### **Excerpt (24)**

*" one cannot be neutral neutrality is absolutely impossible (..) I call neutrality is that he has no opinion on the solutions that people should find he has no opinion to have on what people should find(..) the mediator is going to be multi-partial towards the parties and he's going to be independent (..) " I'm neutral compared to what people have to find as a result in mediation I have no opinion on it eh if they say that neutrality is not having the opinion so I am multi*

*partial but I as a person I cannot be anyone other than what I am"*  
(Interviewee IX, Paragraph 34- 36) "

A third approach is to reflect about what neutrality refers to. Interviewee IV considers that concept of neutrality relates to reflexivity and the ability to decentralize oneself from one's references to better understand references of others. Nevertheless, he also affirms that a neutrality posture is a very difficult element to achieve. Thus, he needs to do self-preparations on himself before conducting a mediation.

**Excerpt (25)**

*"Neutrality is something very very difficult very very difficult to achieve and let's say uhm I'm neutral it means what for me it's a kind of reaction action it means I come with a willingness to understand myself compared to what I'll listen (..) "* and have to try to really do this little preparation on me that I'm here to listen and to try to understand and to try to make understand. It is sort of reflection work to be done on oneself " (Interviewee IV, Paragraph 20) "

Interviewee VI views in contrast the multi-partiality to be the reflexive dimension. By being partial for each of the parties, supporting them to express themselves for better understanding, she strives for multi-partiality. By being partial, she believes that the mediator supports the conflicting parties, help them to express themselves and brings them closer.

**Excerpt (26)**

*"For me neutrality does not exist and that a neutral mediator fully neutral (..) "* we have to get closer to each one we have to be very close and so I was talking about multi-partiality this morning for me it's a much more telling concept eh that is to say that we are partial for each of the parties (..) "Multi-partiality also helps us in a reflexivity process to decenter ourselves on our own references in order to better understand those of others in order to better bring those closer to others and thus this is the concept of neutrality of

*objectivity not subjectivity. Also, because we often put the two together that of objectivity, I reject it immediately" (Interviewee VI, Paragraph 22-24) "*

Moreover, the same mediator understands that the mediation process is crossed by emotions and let herself be traversed by these emotions, her own references, her experiences, her past and contexts which is why she therefore cannot abide by the concept of neutrality. She considers that intercultural mediation cannot be a neutral process because it entails a political project of interculturality.

### **Excerpt (27)**

*"Interviewer: Okay. If I'm talking about neutrality, what does the concept of neutrality mean to you?"*

*F: Well I said this morning intercultural mediation for me it is not neutral because it pursues a political project of interculturality there (..) I am not neutral because I fortunately I am not a vegetable I feel I opine I have emotions I have a past I have experiences that go through me but I believe I can work with parts in conflict I can even I have the right to recognize that I can have more affinity with a party but my ethical duty is to be fair to each other." (Interviewee VI, Paragraph 27)*

More generally, the participants provided different understanding of the concept of mediation:

### **Excerpt (28)**

*".. speaking of the concept of neutrality, we are in the middle of a paradox since neutrality is a very important thing for the mediator some people do not like the word neutrality and prefer to speak of multi-partiality as said before, for me, it can be multi-partiality neutrality, I do not focus on the word but on the other hand I am extremely attentive. I have, I would say like snails' antennas at alert. This is because I think that one is never completely neutral and it is there for me the true neutrality, the true multi-partiality. This is what*

*it means for me, what it does sound for me and is until when I can start a mediation with a totally blank page and it will never be totally blank because we are never totally neutral but at least the fact of having the antennas on alert makes that I tend towards this neutrality or this multi-partiality;”(Interviewee I, Paragraph 12)*

**Excerpt (29)**

*“I find it more passive than multi-partiality and consequently for me I defined it as something inactive.” (Interviewee II, Paragraph 58)*

**Excerpt (30)**

*“Concept of neutrality is a very important position in fact core position for role of mediator, for his authority and right to correctly manage process of mediation”; (Interviewee V, Paragraph 10)*

**Excerpt (31)**

*“The concept of neutrality is having the notion of neutrality where applicable and depends on how it is defined” (Interviewee VIII, Paragraph 15)*

**Excerpt (32)**

*“the concept of neutrality is to be neutral with regard to what people must find as a result in mediation but if neutrality means not to have an opinion, then I am not neutral.” (interviewee IX, Paragraph, 34)*

In sum, the participants seem to understand neutrality as something very difficult to reach. It involves a preparation of the mediator to react in the interaction, to listen and to strive for understanding and making others understand different perspectives. Simultaneously, the mediator must find a balance between staying away from his own opinions and empathizing with that of others. Hence, it is a difficult task which is hard to maintain for some mediators. Nevertheless, most agree here that neutrality should be again related to the outcome and the resolution of the conflict, as could be seen already in the previous section.

After exploring the notion of neutrality both as a perception and a concept, I will examine in the next section how the mediators depict their neutrality during the mediation process most precisely in their practice.

### **9.3 Neutrality during the mediation process**

After constructing an overall view of the perception and concept of neutrality held by the professionals, I considered how neutrality in practice was thematized. It was very important for the purpose of this study indeed to examine the important aspects of neutrality and how neutrality is applied during the mediation process. Under this section, some mediators explained and described attributes they assigned to neutrality while doing mediation. Others described their techniques used to adopt a neutrality posture. Yet others reflected upon the stance and their position.

First, neutrality in practice is regarded as the non-evaluative attitude of the mediator towards the parties and is considered as one of the key principles in the mediation process. Interviewee V elaborates this view as follows:

#### **Excerpt (33)**

*“Interviewer: How does neutrality work in practice for you while you are in the mediation process?”*

*Interviewee V: Neutrality is the non-evaluative attitude of the mediator towards the parties. This means that it does not matter how the parties agree and does not pursue their views and solutions. Independence is the fact that the mediator is not financially, mentally or otherwise connected with the parties to the dispute. Impartiality means that the mediator has no prejudice against the parties, is neither biased nor supports any of the parties, while ensuring that the parties participate equally in the process of resolving their conflict. This principle is one of the key principles without which mediation as a process could not be successful.” (Interviewee V, Paragraph 11)*

In contrast, mediator III, asserts that neutrality is only in relation to the result of the mediation, but that she cannot be neutral during the process. This is because she has emotions, a story and opinions. While narrating an anecdote about maintaining neutrality at her practice, she spoke about a conflict between a young teenager and the father. She referred the case to a colleague of hers as she felt it challenging to hold the neutrality posture.

**Excerpt (34)**

*"Interviewee III: I felt challenged I had to do a whole job on myself to put this emotion away, it angered me. Hmm no, I didn't want, I was tired of all these stories. The girl she was fantastic I wanted to take her in my arms and but not the gentleman eh I did not want to take him in my arms*

*Interviewer: Is it?*

*Interviewee III: so here it is and if it would happen, I would refer it to a colleague because I am not neutral because I have emotions, I have a story, I have opinions etc." (Interviewee III, Paragraph 70 - 72)*

Mediators also pointed out that their job was to know how to guide a structured process to help people think and position themselves regarding the quality of their relations. They were there to facilitate dialogue in order to find a solution. Therefore, Interviewee X claims that he must put moral issues aside or else there is risk of partiality leading to a biased outcome.

**Excerpt (35)**

*"Interviewee X: The mediator must know how to do this, this is to accompany a process, which is going to be a structured process to help people think and position themselves in relational quality. How they will be able to talk together so that they can find a solution. When the mediator is taken by a moral, by moral precepts, he will take sides and the consequence may be that he will not be neutral in relation to the solution and therefore he can even say that in this case*

*there can be no solution , mediation cannot work. " (Interviewee X, Paragraph 67)*

In terms of techniques, mediators in order to sustain neutrality during the mediation process do active listening and, try to do reflexive work on themselves so as not to let opinion come in between. The mediator detaches his values and position to those of the parties, as interviewee IV proposes:

### **Excerpts (36)**

*"Interviewee IV: So I see it like that is that I view it like that during interviews I will receive information, I will listen attentively to a review that will perhaps shock me hit me on a sensitive area, pressing on a sensitive area in my belief. Because it's really the opposite of what I believe of my values of my positions so I'll react I'll be hmm feel the fact that it hit me and I say go, stop getting involve, it's not your belief, push it back and try to come back to make a step forward towards neutrality. It is already there then neutrality." (Interviewee IV, Paragraph 22)*

Interviewee IV further states that neutrality in practice can resemble a yo-yo game for him.

### **Excerpt (37)**

*"Interviewee IV: I try to really do this little preparation on me that I am there to listen and to try to make people understand. It is all the time like that but I am aware that things will offend me and I reject the feeling of refusal of the opinion of other and I say, no, I focus on him, I adopt what he says and I try to make it happen to the other and this movement back and forth it hits me, I lose my neutrality, I am about to lose it and I come back and it hits me and I come back and comes the neutrality of the mediator.*

*Interviewer: Like a YOYO?*

*Interviewee IV: Exactly, like a YOYO" (interviewee IV, Paragraph 23)*

In line with active listening and reflexivity, Interviewee II also relates that with the acquired experience over years of practice, she chooses the way that resonates most among people when they enter the mediation process. She goes to the field of one of the parties, then moves to the field of the other party. The field comprises of the same attentive listening, the same recognition, the same availability to the respective parties. The listening and recognition part are deemed to be very important as the parties will give their opinion, will try to draw the mediators attention. Thus, this position can be delicate for the mediator as he does not hold the truth nor has the right to judge. Hence, the mediator at a certain moment during the mediation process must come out of the binary dichotomy to facilitate the dialogue.

### **Excerpt (38)**

*"Interviewee I: So uhm hmm my technique, the technique is the way I managed to evolve (..) I gained more experience over the years and so I will say that at the present time now I realize that the most optional way that echoes in people with whom one shares a mediation process is when I go both on the ground of one and then I go on the ground of the other what I call going to the field is um give the same attentive listening, partly the same recognition, a same uhm I will say availability and this availability this listening partly this very important recognition since everyone will try to give his opinion will try to pull a little the mediator towards him um for him. I veil my position um I comply with the law my position .It is because even more correct than that of the other party and therefore hmm the difficulty for the mediator as he not hold the truth he has the authority to say that's good or it's not good. So, somewhere um it has to come out of the dichotomy of the binary or one or the other but say that it's beautiful what you do there and what you do it's beautiful too but why this two could not come complement each other and enrich each other rather than veil at that. I will say it opens the field on. It is in for me it's a way to ask the question how I see neutrality hmm this is a way to approach it at my mediation process." (Interviewee I, Paragraph 14)*

Another mediator asserts that for her neutrality in her practice is not to give opinion to parties. Interviewee IX claims that a mediator should be reflexive. Reflexivity is according to her position as mediator and while reframing during the mediation process. Understanding the language is important

**Excerpt (39)**

*"Interviewee IX: I have no opinion on the solution and I have no opinion on people me I tell people I have no opinion on your problem I have no opinion on you on each of you and I have no opinion on the result that should find I have an opinion on nothing it's obviously wrong obviously it's wrong of course I have an opinion but the mediator he has to do a huge job of reflexivity so the mediator must be very reflexive about what he does what he says on the connotation of the simple fact my level of language(...) may not be the same. In my country we speak so many languages and it is important to be able to reflexive ..." (Interviewee IX, Paragraph 60)*

Interviewee VIII gives an extensive glimpse of how neutrality is in practice for her. As mediation is a structured process, often in intercultural community mediations, the mediators discuss among themselves before entering a process. They agree on several things such as techniques to adopt, issues to be considered and respected, for instance, refraining themselves to give suggestions to the parties. Particular attention is given when reframing what the parties have said. Besides, they try not to speak as much as they invite people to speak. Special consideration is needed mostly when conducting intercultural mediation in communities where there are translators involved. The reframing exercise is considered as a tricky exercise because of linguistic differences when it includes translation. Each point of view of the parties are respected and the mediators try not to take sides. They limit their interactions in the discussion and only interfere actively when the parties are disrespectful towards each other. The mediation techniques followed are based on a model called "VISC" as mentioned in the prior section of perception of neutrality. Once the preliminaries of the mediation process are set, a relationship of trust is established among the parties and if there are any

accusations of favoring a party, they disappear. Therefore, they are neutral during the whole process.

#### **Excerpt (40)**

*“Interviewee VIII: Well, what we do is that we, we work a lot with the communities and the project promoters. We structure the process together with them. And then when we start the mediation, (...) there's always more than one mediator. And we usually also have discussed it between us. And we have agreed on a number of things that we that we have to respect like not to try to make any suggestions of what people should do or not do we and we just kind of use the mediation techniques that every mediator uses. We try to be very careful when we reframe the what people have said, which is sometimes a bit of a tricky exercise because in some places we work with interpreters. Because people have their own local languages. And it's not always that we can speak those languages. So, these reframing exercises to be even more careful because then it's going to be translated. And we tried to be very careful not to take any sides and just kind of everybody who has a point is a is a point of view that must be respected. And that's what we asked the parties to do as well. And, and we only, we only usually try will interfere more actively in the discussions if people start not being respectful of each other. So, basically, you follow the mediation techniques that you have learned and usually it works quite well. It's usually also sometimes the case that people when the beginning when you say something you when you, for instance one person is speaking and these starts being not very respectful Yeah, then you stop him. The person will say, will tend to say, yeah, it's because you are stopping me because you are favoring the other party. And then when it comes in the opposite party that you also stop them, they will say again, it's because you are favoring the other party, but that usually happens in the beginning. But once you have established a relationship of trust with people, people understand what you are trying to do, and this kind of accusations tend to go away I think.” (Interviewee VIII, Paragraph 27)*

Interviewee III maintains that she is not neutral in practice but is multi-partial to meet the needs of the parties during the mediation process. She uses impartiality in an objective manner to bring balance to the asymmetry of powers.

**Excerpt (41)**

*"Interviewer: how do you apply this concept of neutrality during mediation process?"*

*Interviewee III: Good first I say never that I'm neutral I've already explained and I'll go into the worst situations I have quite right and I have the duty if I feel I'm not going to be impartial not to operate on this case and to ask another colleague, another colleague who may be does not have as many emotions on this case to take my place must also recognize and accept his weaknesses on the one hand but in another case as I said I can feel some affinity. Let's talk about the small indigenous community uh that's going to be swallowed by a XXX multinational or XXXX mining good eh in principle in the heart and side of the indigenous community but that still I have to we're armed we're trained for that or we should be uh so we can work with respect by giving and making sure for the space of each of the parties*

*Interviewer: ok*

*Interviewee III: there are cases of very large asymmetry of power and where I understand I must also try before the mediation sessions to rebalanced a little bit this power because I cannot send I cannot start a mediation session or a trial of a dialogue process or the differences in power the asymmetries of powers are too blatant are very important because uh it's not correct*

*Interviewer: ok*

*Interviewee III: but I do not find in this case that I lose my impartiality I react between an objective reality*

*Interviewer: ok*

*Interviewee III: and so, I use methods that also give me mediation to work this rebalancing. " (Interviewee III, Paragraph 30 - 37)*

Interviewee VII supports interviewee III view. In a similar manner, she claims not to be neutral during the mediation process. She distinguishes the ethical question of being mediator in a process and how it involves self-work at personal level for the mediator. The balance of power is important when there are big actors in play. Her aim is to make the parties realize that they have complementary interests:

**Excerpt (42)**

*"Interviewee VII: you see because there is something there are two elements that must be taken into account and that we have to work a lot at the personal level as a mediator that it is the ethical question that precisely we are not neutral when we say we are not neutral is not a technical issue it's an ideological issue you see so I'm not neutral because that ethically I know there's a very unequal power relationship so if you don't put a balance of powers to restore a power relationship that allows for force to negotiate as an active protagonist both and not play with money not play with the political powers on the spot not play with some things at least you can be comfortable that they will start a conversation that it's worth but otherwise it's bluffing*

*Interviewer: uh hm but just in this exercise how do you manage the needs of both parties?*

*Interviewee VII: trying to see and help others see to the parties concerned to see that they have complementary interests"  
(Interviewee VII, Paragraph 46 - 48)*

It was very interesting to have a glimpse of the mediation practice and the positions the intercultural mediators took to maintain neutrality. It could be seen that during the practice, each mediator had different approaches and techniques to maintain their neutrality position. Some mediators argue that they are not neutral during the practice because of power balance and thus consider it better to be partial or multi-partial. One does a constant job of being reflexive and conscious about their position and to distinguish their professional roles from their own personal moral values. At this point,

another theme was important to depict: when did neutrality became an issue in practice?  
It is to this theme we turn next

#### **9.4 Neutrality as an issue**

During the code extraction, I examined whether neutrality could be posed as an issue for practice. It was deemed important to investigate whether neutrality can constitute a problem in practice or an advantage.

Neutrality constitute a problem for interviewee VI because it prevents the creation of empathy and space to build up mutual trust. She narrates a situation she encountered during her profession wherein she became resilient. It was a successful collective mediation done with people of one community in her resident country with new refugees who arrived in the country. In the beginning, she had difficulties to understand the language of both the parties. The parties also had difficulties to confide in her because of linguistics questions and because she has not lived similar experiences to them. Therefore, she applied resilience and invited other refugees to testify their experiences, losses, fears and how they integrated. This action comforted the new refugees and the community people. She further states that at a certain point during the process it was the emotions which empowered the parties and allowed them to have discussions with the help of the translators. This resilience built the trust relationship between them. For her, the fact that she did not understand much the language, nor the discussion allowed her to be considered neutral and transparent in a way. Mostly when dealing with people from different communities she maintains that that the mediator first task is to create empathy with different people with whom he works and must create space in which mutual trust will be established. Since neutrality prevents creation of empathy it poses a problem for her.

##### **Excerpt (43)**

*"Neutrality would be a problem for me because I think it prevents the creation of empathy and so from that moment on I think the mediator*

*the first job he has to do is to create this empathy with the different people with the whom he works on and then he has to create the space in which mutual trust will eventually come to be created so neutrality from the beginning will be a problem but I'll tell a collective mediation that I conducted also and that's long it's been a decade and it was with people from the xxxxx community in xxxx and the xxxx who arrive in xxxx are all refugees, are political refugees but they are eh part of the different camp eh we are in a civil war conflict with all kinds of extremely complicated issues further we are from the outside we understand not always all (...). I didn't know much about their history etc. and what we had decided with our other people what we were going to involve other people who were refugees but different others countries that would talk about their experiences as refugees who would testify to their experiences as refugees to show that ultimately no matter where we come from is no matter what we had experienced before, we experienced the same losses therefore the same difficulties we had a xxx witness a person who came from Middle East. Finally, in short really who were not xxxx but who had shared their difficulties then their losses then their all their fears etc. It had been very strong so at this at the time we had translators we asked because they didn't talk xxx either, so we had people from the community. So I went on resilience and then the translators started working and then after that I opened the discussion except that I did not understand it (laughs) the discussion so translators after a while translated things but not all then words then I think they reflected not all what I said either and it was among the fact that I understood not all became neutral, became transparent at one point and a while at the beginning people were talking to me and then little by little they talked more to me, they were talking to them, among them and they really talked to each other so we did this meeting at the end of this meeting there was a lot of tears a lot it's a lot of emotions that are expressed I just saw emotions just flowing (laughs) emotions. It became a success over time. We conducted three meetings in total." (Interviewee VI, Paragraph 38)*

Maintaining neutrality is a problem for certain mediators when they are mediating with some of the same gender as they are and towards which the conflicting party is

prejudiced. Sensibleness seems to be difficult to maintain and emancipation of gender comes into play, so neutrality becomes an issue. Interviewee II confides an anecdote where neutrality constituted such a problem.

**Excerpt (44)**

*"Interviewer: Okay and hmm would you have an anecdote to tell me in which the exercise so neutrality could have been a problem for you?"*

*Interviewee II: Yes I have more problem with all that is domestic violence eh I do not speak all is violent like a slap is not but certain violence can be domestic violence compared to a slap like that but when there is really something hmm installed there is really ill-treatment or a fear yes the I know I have a mediation I'm more at all neutral*

*Interviewer: You are no longer neutral at all?*

*Interviewee II: Then no I'm no longer at all neutral ahh and when I came out of this mediation I know I said to the lady you know we're in a lxxx country there's no right to get beaten up and eh even if you don't all your valid papers legally you can be protected and I know it was not my role as mediator and from then I said I no longer want to do mediation where there is domestic violence not a slap eh for me it's violence because even but not to the point that " (Interviewee II, Paragraph 29 - 32)*

Similarly, when faced with situation of abuse or domestic violence, interviewee V has problem with maintaining impartiality and neutrality, with withholding from expressing opinion and with not interfering. Such situations are inherently difficult because the mediator is ethically bounded to neutrality. According to interviewer V if a mediator cannot be independent nor neutral then he must stop the mediation.

### **Excerpt (45)**

*“Interviewer: Can you narrate to me an instance where neutrality was a particular problem or concern for you?”*

*Interviewee: Yes, for example, when I had a Vietnamese woman on mediation, I was convinced she was abused. Her xxxx husband claimed that everything was all right. I simply had a problem with maintaining my impartiality and neutrality, not saying my opinion and not interfering.” (Interviewee V, Paragraph 13)*

The latter further states that:

### **Excerpt (46)**

*“A good mediator should always seek to be independent and neutral, if this is not possible due to the development of mediation, he must immediately stop mediation.” (Interviewee V, Paragraph 15)*

Neutrality is a problem because it obstructs mediator from giving their opinion, sharing their experiences in order to help the parties see that they have complementary interests as supported by interviewee VI in excerpt 23. She once had a case dealing with human resources in a company and had to stop the mediation.

### **Excerpt (47)**

*“Interviewee VI: I stopped. I remember a file; I had the interviews process on. Hmm, well, it's a labor dispute I had the individual interviews and I had the impression that both even if one part was very fragile the others they are leaders but I had the impression that in individual interview the chief was able to reflexivity to move and in the session it was awful. I stopped I said I could not continue this mediation and after I stop, I tell the employer the conditions necessary for mediations are not realized. I stop it's up to the employer to take over because I still work with Human resources I do not accept mediation because I just do not want people to stay there and be prejudiced” (Interviewee VI: Paragraph, 83 - 84)*

Acknowledging difficulty of being neutral can be an advantage. It is because of the awareness of such difficulty that the mediator becomes more proactive. Interviewee IV explains how it contribute an advantage to him:

**Excerpt (48)**

*“ Interviewee IV: It's important to be aware of our difficulty of being neutral and when you take this shot I don't get up or I counter it and it's back and forth if that's neutrality yes (..) if someone for example is defending himself that yes I have to hit my wife to educate her well because it's like that in my culture for example it's like that (big sigh) it's very hard to say I'll stay neutral like that and yes you save z voila sir he says he hits his wife because that's how it is.. we can take a break and maybe ask sir you know (laugh) I do not know ..honestly I do not know how I will react in a moment like that but it's you see for example that's a case where it's very difficult to keep his neutrality and say I stayed neutral all the time. It is like we get a shock bam we lose neutrality but no I push back I come back and I get a shock and boom I lose and I come back and so that's what this consciousness attention that this man, he touched this sensitive area in me about the values of woman, the child, it is this acknowledgement of differencing that make me not lose the neutrality. ”(Interviewee IV, Paragraph 30)*

To sum up, we could see that neutrality could be an issue to certain mediators while others viewed it as an advantage. The advantage came from as being conscious of losing neutrality at certain moments, which helped to be proactive as in the case of interviewee IV. From this basis, I further wanted to pursue the research to examine whether the concept of neutrality, or the term neutrality needed to be considered and given importance in the code of professional ethics of mediators.

## **9.5 Code of ethics about neutrality**

In this section, I wanted to find out whether the mediators found acceptable or questionable the inclusion of neutrality in the professional code of ethics. Here a variety of responses were again given.

Interviewee V for example did not particularly think that the code of ethics should be called into question. For him, even the highest quality code of ethics could not replace the mediators' internal moral and ethical responsibility for quality mediation. Interviewee V reflected as following:

**Excerpt (49)**

*“Interviewer: Do you think that the ethical code more precisely the neutrality aspect should be reviewed in nowadays practice? If yes, why and how?”*

*Interviewee V: No, I do not think that even the highest quality code of ethics can replace the mediator's internal moral and ethical responsibility for quality mediation.” (Interviewee V, Paragraph 16)*

Mediator III suggested defining what is neutrality and of what it consists of. She also wanted more talk about ethics in reference with what the mediator does, with whom, with which basis, in what context and in which context of structural inequalities and asymmetric powers. For her these factors were more important to be debated rather than the ethics code.

**Excerpt (50)**

*“Interviewee III: yes I mean that once we have defined this story of neutrality uh of partiality I would like to talk about ethics uh that we do with whom with what basis in what contexts and structural inequalities and asymmetric powers I would like to talk about it seems to me much more important than neutrality” (Interviewee III, Paragraph 106)*

Mediators also thought that the concept of neutrality should be challenged in order to bring clarification to the meaning of its ethical value. This is because the term neutrality does not have a standard proper definition. Depending on how one perceives and conceives the literal term of neutrality, one will bring accordingly possibly a different ethical sense to their understanding of neutrality as it is spelled out in the code of ethics. If the term neutrality is given a structure, a standard meaning and if some flexibility is allowed in practice then a mediator can be neutral. Both interviewee III and VIII discuss about this in the following ways:

### **Excerpt (51)**

*Interviewer: So, do you think that the current code of ethics of neutrality should be questioned in relation to the actual practice of mediation?*

*Interviewee III: Yes*

*Interviewer: Why?*

*Interviewee III: more than questioning I think it needs to be reformulated*

*Interviewer: ok elaborate a little more please*

*Interviewee III: yes but it has to do with all that I told you before that multi-partial is impartiality you have to rephrase that and then I think just when you talk about ethical code and neutrality you have to put forward ethics and you will have to challenge, define a little more would be what to do and absolutely not do" (Interviewee III, Paragraph 89 - 94)*

### **Excerpt (52)**

*"Interviewer: So, the posture of neutrality is presented as essential for mediators. It is in the codes of ethics. What is your opinion about it?"*

*Interviewee VIII: Yeah (laugh). Well, as I said, I think I'm going to be repeating myself a little bit here. I think. I think the problem with this notion of neutrality is, is that you really, its ethical value, you don't really know, no one really knows what neutrality is. There's not a standard definition of neutrality that is accepted by everybody. I think so. That's one of the major problems because I would say probably there are as many definitions of neutrality of us mediators you can find." (Interviewee VIII, Paragraph 28 - 29)*

Neutrality as code of ethics was considered important to be looked at during the analysis as based on this ethical value that mediators adopt the neutrality posture. The essence of looking at this theme was to see whether it is an acceptable or challengeable ethical code. Suggestions, acceptance and resentment came up when the question of neutrality as an ethic code was asked. In the next section I summarized and discuss the results of the analysis.

## **9.6 Summary of the findings**

The qualitative data analysis methodology in addition to the F4 analysis software allowed a detailed analysis of the data. The core questions related to the research questions of the study namely:

- How do mediators make sense of neutrality in their practice?
- What range of meanings do mediators associate with the concept of neutrality?

It aimed to see how mediators make sense of neutrality in their practice and the range of meanings which they associated with the concept of neutrality.

Based on the findings, the following observations can be made. With regards to the perception of neutrality, resentment of the idea of being neutral seems consistent. More than half of the participants declared themselves not to be neutral. The fact that they have a history, emotions, experiences and opinions were all factors challenging their neutral position. Many also regarded neutrality as a paradox and bordering on

mysticism. In order to abide nevertheless to the prescription of being neutral, certain mediators employed structured procedure and specific techniques. Unanimously, they all agreed to be neutral with regards to the outcome of the mediation but not always necessary in the process.

With regards to terminology, lots of confusion could be noted when evoking the concept of neutrality. This stems from the fact that the term neutrality is ambiguous. Since the concept of neutrality is vague and there is a lack of definitions of the literal term, many mediators interpreted neutrality in their own way and came up with their own definition. Most of the mediators would often refer and prefer to discuss about multi-partiality or partiality when the concept of neutrality was addressed. In fact, some claimed to reject the concept of neutrality and replace it by multi partiality to be fair in mediation.

When questioned about the neutral position employed during mediation process, reflectivity and reflexivity terms were used. Mediators stated that they needed to do constant work on themselves to be conscious of their beliefs and moral relation to the conflicting parties. In some instances, they needed take a step back to decenter themselves from the parties, refrain to give opinions and be cautious when reformulating and reframing. Nonetheless, mediators who perceived themselves as not being neutral but multi-partial stipulate that neutrality for them is limited to the solution but not to the process. Thus, it was important for them to build a relation of trust and must be empathic to reach a fair outcome. During the analysis, it came up that mediators cannot uphold their neutrality when confronted with gender issues where they were aligning with one party. Gender was considered an issue in some situations for neutrality. For instance, a mediator encountered a mediated party subject to domestic violence during a mediation process. The mediator at a certain point during the process lost her neutrality, overpowered by sympathy and emotions. Thus, she opted to switch to multi-partiality in the course of the mediation.

Other mediators, who regarded neutrality as a problem considered nonetheless that they could convert this issue to an advantage by balancing power relations and acknowledging the fact that it is sometimes difficult to maintain being neutral. This is when the act of reflectivity came into play. Neutrality in the codes of ethics was questioned and debated. While in certain jurisdiction, neutrality is absent in the code of ethics, for certain mediators its presence is paradoxically both questionable and unquestionable. Mediators would not necessarily get rid of the term, considering it sometimes one of the key principles of mediation, but would appreciate clarity and proper standard definition of neutrality to better understand the concept and its essence in the codes of ethics. In the meantime, some mediators vouched for multi-partiality to neutrality.

## **10. Discussion of findings**

This study set out with the aim of assessing the neutrality posture of the intercultural mediator during practice and the meanings that are associated with neutrality in the mediation profession. The most obvious findings to emerge from the analysis are related to the theoretical and empirical perspectives on the meaning of neutrality that were discussed in the literature review section. With respect to the first research question of how intercultural mediators make sense of neutrality in their practice, we can observe that there seemed to be significant similarities to the past empirical studies conducted. For instance, the exercise of reflexivity seemed consistent with the findings of the empirical research of Mulcahy (2001). It could be noted that mediators do a reflective work on themselves when confronted with situation of possible bias. This activity of reflexivity is to acknowledge and distinguish the mediator's position with regards to their values and beliefs to those of the parties in order to maintain their neutral position during the process. This act also aims to decenter the mediator's position of his reference to those of the conflicting parties and be neutral only to the outcome. Consistent to the observation on the perception on the meaning of neutrality of Mulcahy's research (2001), which was uniform, my findings demonstrated the same

orientation. Most of the participants contended that the fundamentals of the concept of neutrality is to be neutral to the outcome.

The results also corroborate to the empirical research of Cobb and Rifkin (1991), whose findings led to developing the idea that two terms were important for mediation, namely impartiality and equidistance. Nevertheless, the data showed that instead of the equidistance term, the term multi-partiality seemed to be the most favored term for the participants in this analysis. In describing multi-partiality participants in several instances maintained that they are equally distant to each conflicting party. The mediators try to balance the power to reach a fair solution. However, was also noted that in practice, there could be an act of favoritism to bring an equilibrium to reach a consensus in situation of large power imbalance. Many of the participants preferred to use the term multi-partiality when the concept of neutrality was evoked. Neutrality, as impartiality, dealt with not being biased to parties and decentering oneself from emotions and opinions to reach an equitable outcome. Quite similarly to Jacobs' (2002) views on the difficulties of maintaining neutrality when empathic dialogues and, relational closeness are needed to reach symmetrical agreement and meet the demands of situation of power imbalance, mediators claimed that they have an existence, past, emotions empathy and opinions and that, rather to be avoided, facilitated openness in the mediation process. Nonetheless, these moves are only to balance the process and the goal is to be neutral to the consensus and outcome.

Regarding meanings associated with neutrality, the outcomes agreed with those obtained by Astor (2007). Astor outlined four meanings to neutrality in her research that were also similar in mine. Frequently the data showed that neutrality is related to the outcome of the mediation process. Impartiality was associated with the meaning of not indulging in favoritism. Neutrality was to be independent from institutions. The neutrality to the outcome, neutrality as impartiality and independent from institutions bore similarities to the meanings of neutrality deducted by Astor. My participants did

not refer to the fourth meaning of Astor that is influence by personal or financial connection.

As mentioned in the literature review in section 4.2, the meanings given to neutrality in mediation is still vague (Exon, 2008). Becker (2013) even describes it as an elusive concept. Mediators have attempted to define meanings associated to the neutrality concept but since there is no standard definition of the meaning of neutrality, most of the participants came up with their own notion of how they perceive neutrality. This finding broadly supports the claim of Astor (2007) that the lack of agreement and consistency among mediators renders the task of defining the term neutrality difficult.

So far, the results corroborate the findings of a great deal previous work done regarding neutrality in the mediation process. Notwithstanding, through this research, it could be noted that the perception of neutrality may vary significantly between cultures. As the participants of this research hail from different geographical and cultural background, they had different views on neutrality in practice. Neutrality was also referred as a paradox because one can never evaluate the degree of neutrality. Neutrality was compared to a white blank page which is difficult to attain at its purest white. Neutrality was referred to be not a useful concept in mediation because it does not allow influence. Influence here is according to the process. This means that if neutrality is applied in a literal sense that is only neutral to the outcome of the mediation, mediators cannot be empathic, cannot do power balance nor create relational closeness. It can be hypothesized that due to all these restrictions in abiding with the neutrality posture, mediators were driven to adopt multi-partiality neutrality. As a possible explanation it can be that during the process adopting multi-partiality allows them to have a flexibility to facilitate the process yet maintain the neutrality only to the outcome.

## 11. CONCLUSION

This section outlines summarizes the results of the study, make some recommendations and highlights limitations encountered during the research process. The results of this work aimed to unravel and shed light on the understanding of neutrality and the posture intercultural mediators adopt during a mediation process. The purpose of this paper was to understand the neutrality posture of the intercultural mediator, how they maintain the neutrality posture during mediation practice and what they understand regarding neutrality. In this study, there were glimpses of the challenges that professionals encounter, of their understanding to the concept of neutrality, of how they perceive it, what it really means to them and how it is applied in their profession. Through this research, we identified that there were lots of differences in how people define neutrality, how they perceive the term neutrality, and what the conception of neutrality means to them. One of the significant findings to emerge is that each mediator had different opinion about neutrality. Moreover, when it comes down to the practice level mediators have different ways and techniques to use neutrality. The issues of maintaining neutrality during mediation was also discussed.

It is worth to mentioning that the aim of the research was also based on my own motivation. I wanted to find out whether the fact that I hail from a different cultural background had an impact, bore a difference in my practice as a mediator or not. I noticed that the fact that my participants hailed from different cultural background and from different geographical locations, meant they had different ways of carrying out mediation processes. So, it could be argued that culture may have an impact on the process of mediation. For instance, mediators from the eastern continent have a willingness to be empathic, create dialogue, share their opinions, belief, stories, values and experiences. There is an openness and flexibility to the mediation process. They do not want to be neutral in the process but would prefer to be partial or multi-partial. In contrast mediators from the European continent would rather follow a structured mediation process wherein even if there are challenges to maintain the neutrality

posture, they will abide by it. They would rather do reflexive or self-reflexive work on themselves and be impartial to avoid favoritism to parties.

In the following two paragraphs, I will outline the numbers of mediators who found it useful to use the concept of neutrality in their practice or not. In total ten intercultural mediators participated for this research.

The findings of this research provide insights for major problems five intercultural mediators faced during practice with this notion. It consisted in difficulties to create relational closeness, empathic dialogue and balance power if neutrality was strictly enforced. Therefore, these mediators tended to adopt multi-partiality. For them, multi-partiality allowed them to be partial to both parties. One among the five participants thus rejected the concept of neutrality stating that it was a useless concept in mediation because we differ in sex, gender, culture. Thus, it is impossible to be neutral. Similarly, another mediator claimed that she is not a passive participant. She has a past, a story, emotions, opinions and is empathic thus she cannot be neutral. The third mediator stated that she believed that if mediators absorb subjectivity and emotions, the reality of the people with all their dreams and miseries in consideration, one could not talk of neutrality in mediation. The fourth mediator said that she is not neutral because maintaining neutrality during practice does not allow influencing the course of the process. She would prefer to reject this concept and adopt multi-partiality for flexibility. The fifth mediator stated that a neutral mediator is not a good mediator because neutrality prohibits creation of empathic dialogue and power balance. Nonetheless, all five agreed mediators that they are neutral only to the outcome but not to the process.

Four participants spoke about mediation being a structured process and about impartiality. Two mediators spoke about reflexivity and self-consciousness of the difficulty to maintain the neutrality posture. They acknowledged that it is a difficult

task to be neutral and that to be so required reflexivity work on oneself to distinguish one's belief, values, morals, opinions from those of the involved parties. It is an ongoing task which is to be performed by the mediator to maintain the neutrality posture. Another mediator viewed neutrality as the non-evaluative attitude of the mediator towards the parties. He highlighted that it did not matter how the parties agree and he did not pursue their views and solutions. He stated that if the mediator feels that he is not being neutral anymore during the mediation then he must stop. According to the fourth mediator, a mediator must know how to accompany a process, which is going to be a structured process to help people think and position themselves in relational quality. His neutrality is limited to facilitate dialogue so that the conflicting parties can find a solution. The remaining one participant said that as there is no proper definition of neutrality, over the years she adopted the VISC model and by applying this model she maintains her neutrality posture.

Overall, this study strengthens the idea that neutrality is central to the building of consensus. In addition, the findings of this investigation complement those of earlier studies. The results of this research support the idea that neutrality is an elusive concept. The present study adds to the growing body of empirical research that the concept of neutrality is convoluted. It can be argued that it is an undesirable posture for certain intercultural mediators. This study has confirmed the findings of previous empirical research done in relation to the neutrality concept. It also demonstrated that in order to reach a fair outcome mediator deem important to do a self-reflexive process. Prior to this study, it was difficult to make predictions about whether cultural background had an important role play in the neutrality posture of the mediator. This research has gone some way towards enhancing our understanding that the cultural factor does play a role in maintaining the neutrality posture. A limitation to this study is that it was conducted on a small scale. Only ten interviewees participated. Each intercultural mediator was from a different country thus the representation of the findings is considerably minimized. However, the in-depth interviews proved valuable to display variety of perspectives that can now be probed further. An issue that was not addressed in this

study was whether the researcher herself could be biased as she is also a mediator by profession and sometimes struggles to maintain her neutrality posture. Using careful methodology was the way to find the unexpected results and ensure some distance from experience.

Further research should be carried out to establish whether the section on neutrality in the ethical code of conduct is important in the mediation practice. Further studies could help understand whether it is an effective posture to impose to the mediator or whether more nuanced perspectives need to be developed. There is, it seems however already a definite need for defining neutrality in mediation. A reasonable approach to tackle this ambiguity of the neutrality term and its essence in mediation is to give a proper and standard definition of the neutrality in mediation. Its importance, application and implications in the mediation practice should be established.

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### **Related websites:**

Mauritius : Read <https://www.everyculture.com/Ma-Ni/Mauritius.html#ixzz5hP5mCQ5r>  
<http://luxembourg.public.lu/en/le-grand-duche-se-presente/luxembourg-tour-horizon/population-et-multiculturalite/>

[https://statistiques.public.lu/stat/TableViewer/tableViewHTML.aspx?ReportId=12857&IF\\_Language=eng&MainTheme=2&FldrName=1#WDS\\_table\\_summary](https://statistiques.public.lu/stat/TableViewer/tableViewHTML.aspx?ReportId=12857&IF_Language=eng&MainTheme=2&FldrName=1#WDS_table_summary)

<http://delano.lu/d/detail/news/fall-number-asylum-seekers/170063#>

<https://www.worlddata.info/europe/luxembourg/asylum.php>

[www.mediate.com/articles/NaturalHistory.cfm](http://www.mediate.com/articles/NaturalHistory.cfm)

[http://docshare.tips/11-youngpdf\\_58607c51b6d87f725d8b70d3.html](http://docshare.tips/11-youngpdf_58607c51b6d87f725d8b70d3.html)

[https://www.researchgate.net/publication/274268574\\_Pragmatics\\_and\\_intercultural\\_mediation\\_in\\_intercultural\\_language\\_learning](https://www.researchgate.net/publication/274268574_Pragmatics_and_intercultural_mediation_in_intercultural_language_learning)

### **Journals**

<file:///C:/Users/ragin/AppData/Local/Microsoft/Windows/INetCache/IE/30WNY2YW/7.pdf>

### **Essays**

<https://www.termpaperwarehouse.com/essay-on/The-Impact-Of-Culture-On-Politics/434225>

## APPENDICES

### Interview Questions ENGLISH

#### Personal questions:

- Mediation, why mediation? 😊 (How come you came to this profession?)
- Since how long are you a mediator?
- Where do you practice?
- How come you specialized to cultural or intercultural mediation? Why? Motivation behind?

#### Core questions:

- What does the concept of neutrality mean for you?
- How does it work in practice for you while you are in the mediation process?
- The posture of neutrality is presented as essential for mediators. What is your opinion about it?
- Can you narrate to me an instance where neutrality was a problem or concern for you?
- When you are neutral, how do you manage to meet the needs of both parties particularly if there is a power balance and/ or cultural difference? **(To pick an example from one of past mediation, an experience, depending on the answer of the previous question – context wise)**
- What do you think, can one always be neutral?
- Do you think that the ethical code more precisely the neutrality aspect should be reviewed in nowadays practice? If yes, why and how?
- Can mediation be effective if mediators are not independent, neutral and impartial?

## Interview Questions FRENCH

La Médiation. Pourquoi et Comment?

1. Depuis combien de temps êtes-vous médiateur ?
2. Où pratiquez-vous la médiation ? Dans quel contexte ?
3. Pourquoi êtes-vous spécialisé dans la médiation culturelle/ interculturelle ?  
Qu'est-ce qui vous a motivé à choisir la médiation interculturelle comme spécialité ?
4. Qu'est-ce que le concept de neutralité évoque pour vous ?
5. Comment percevez-vous ce concept de neutralité lors des entretiens de médiation ?
6. La neutralité du médiateur est présentée comme un élément primordial dans l'exercice de la médiation. Qu'en pensez-vous ?
7. Auriez-vous une anecdote à me raconter dans laquelle l'exercice de la neutralité aurait pu être un problème ?
8. Quand vous exercez la neutralité comment arrivez-vous à gérer les besoins de deux parties ? Mais également lorsqu' une de deux parties prend le dessus sur l'autre ?
9. Pensez-vous pouvoir rester neutre ?
10. Pensez-vous que le code d'éthique actuel de la neutralité devrait être remis en question par rapport à la pratique effective de la médiation ? Pourquoi ?
11. Est-ce que la médiation peut être efficace si on n'est pas neutre, Indépendant et impartiale ?

## Consent Form Template

### **Goal of the project: RESEARCH IN THE MEDIATION FIELD**

#### **Title: The Neutrality Posture of the Mediator in intercultural mediation**

You are invited to take part in an interview during which you will be asked to talk about your educational experience at your working place, about your experience as a mediator during a mediation process.

This study is being conducted by Raginee Poloogadoo. The research will contribute to the writing of the project mentioned above for the Master in Learning and Communication in Multilingual and Multicultural Contexts at the University of Luxembourg.

#### **Confidentiality**

The information collected during the interview is confidential. Your name and a brief description of which body you represent, or you practice at will be introduced as the participant contributing to the project. Nevertheless, in the transcripts and during the analysis your name will be anonymized as well as any information that would allow to potentially recognize you. No information that would allow identifying you will be disseminated without explicit prior consent from you.

#### **Voluntary participation**

Your participation is voluntary. This means you accept to participate in this project freely and without any external constraints. You have moreover the right to withdraw from the study at any time, even before the end of the study, simply by informing the researcher. In this case, all information that was gathered during the interview with you will be deleted. Your consent to participate in the study implies that you agree that Raginee Poloogadoo might use the information collected for peer discussion, for research and for sharing with administrative bodies at the University of Luxembourg.

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I understand and agree to the conditions outlined on this consent form. I had the opportunity to ask questions to the researcher and I understand that I have the possibility to withdraw at any time from the study without giving any justification or suffering negative consequences.

Participant's Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

A CASE STUDY:

NEUTRALITY POSTURE OF THE MEDIATOR IN INTERCULTURAL MEDIATION

Raginee Poloogadoo  
Mediator, Luxembourg

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