

## PART II – PRE-CAUCUS

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The process of mediation can help contenders discuss issues, repair past injuries, and develop the tools needed to examine disagreements directly with each other. Preparing for such a conversation takes work. While there are hundreds of factors that can affect the successful resolution of a mediated conflict, in Party-Directed Mediation the *pre-caucus* is an essential pillar. Here, the mediator meets alone with each party.

Until recently, any private conversation between the third party and one of the contenders was perceived as suspect: mediator neutrality was considered compromised. Such fears assume a mediator-directed approach in which the third party wields much power and often acts as a quasi arbitrator. When the mediation process is understood—from its inception—as one in which the contenders retain control over the outcome, then less importance is given to the mediator’s supposed neutrality.

The pre-caucus affords each party the opportunity to be heard and understood. Through it, participants can (1) vent emotions, (2) broaden perspectives, (3) feel the support of a third party, (4) discover blind spots, (5) prepare to negotiate, (6) increase their desire in resolving the conflict, (7) obtain hope, and (8) come to see the other party as a real person.

Finally, the pre-caucus helps answer an important question for the intermediary: “Can I safely bring the parties into a joint session in which they will converse directly with each other? Or will a more traditional approach be preferable?”

During the pre-caucus, individuals learn to hear themselves (and prepare to listen to each other during the joint session). Pre-caucusing is not about finding concessions, compromises, or solutions to the discord. Mediators have no clear clues as to how the conflict will be solved. There is no need for the intermediary to panic and wonder, “What did I get myself into this time?” Eventually, the disputants will find their own answers.

Generally, the pre-caucus (1) consists of a brief introduction by the mediator, (2) permits the party to speak and be heard through empathic listening, (3) challenges blind spots and prepares the individual for the joint session, and (4) helps harvest positive comments made by each party about the other.

Before mediators focus on listening, they briefly explain the issue of confidentiality and the mechanics of the mediation process, so participants do not feel surprised or lost. Parties may have questions about the process, also.

Each party must understand that the role of the intermediary is not to decide which of the contenders is in the right. For many people this is a difficult concept to grasp. Yet, little will be achieved as long as the parties are under the impression that they must defend the virtues of their own perspectives before an arbitrator. Participants, then, need to realize that mediation offers a unique opportunity to clarify their objectives and begin to comprehend each other’s needs. Mutual understanding allows for more enduring solutions.

The preliminary conversation generally lasts less than five minutes. Let us move on to the empathic listening portion of the pre-caucus.

## 2

### Empathic Listening



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The Panama Canal evokes an adequate analogy for the listening role a mediator plays during the pre-caucus. As a youth, I traversed the canal several times on a freighter from the Port of Valparaiso in Chile to New York. Massive lock gates regulate the water levels in the canal so ships can move across the waterway. The water level behind a set of closed locks can be much higher than that of the next compartment through which a ship will sail.

Compare this scene to the state of mind of an individual involved in an intense conflict. Disparate water levels build pressure behind the closed locks. Open the lock gates, and the water gushes out—mostly in one direction. Likewise, an individual who has pent-up feelings of antagonism needs a

release. Without a discharge, a contender is unlikely to either think clearly about the dispute or be receptive to external input—from the other party or the mediator.

The intermediary helps contenders open emotional lock gates. When they do, intense affect pours out. During this venting process, the pressure blocks other perspectives.

Only when the water has leveled off between the two compartments does it begin to flow evenly back and forth. The role of the mediator is to help parties empty the large reservoirs of emotion, anger, stress, frustration, and other negative feelings until each is able to think and see more clearly. Not until then can an individual consider the needs of the other. Perhaps we can think of it as *listening first aid*.

At one enterprise, the manager introduced me to one of the conflicting parties. As soon as we were left alone and began the pre-caucus, this individual broke into tears. A similar situation took place at a different organization. One of the managers began to cry, ostensibly because of pressing issues. Had these men come immediately into joint meetings with the other contenders, their feelings of vulnerability might easily have turned into anger and defensiveness.

I was once informed that the pre-caucus would be quite brief, as the person I was about to listen to was not a man of many words. Yet this individual spoke to me for almost two hours. By the time we finished, he felt understood and had gained confidence. During the joint session, he was able to speak and even laugh when it was appropriate. I have found the silent type will often open up during a pre-caucus—when there is someone who will truly listen.

People like to explain their own perspectives first, and this adds to the complexity of the mediation process. Certainly, both parties cannot speak and be heard at the same time. Although not the same as explaining one's position to an adversary, the pre-caucus does serve this need well. Each party can freely vent to the mediator before having to be receptive to other ideas.

The more entrenched and emotional the conflict, the more vital the listening role. It is impossible to know for certain, before

the pre-caucus, exactly how deeply emotions are running. Lesser disputes will simply require shorter pre-caucuses. The process of listening so others will talk is called *empathic listening*.

Empathy, according to some dictionary definitions, means to put oneself in a position to understand another. Certainly, this is an aspect of empathy. I prefer to define empathy, however, as it is often used in psychology: the process of attending to another so the person who is speaking feels heard in a non-judgmental way. Empathic listening requires that we accompany others in their moments of sadness, anguish, self-discovery, challenge—or even great joy!

This approach to listening was championed by Carl Rogers, author of *Client-Centered Therapy*.<sup>1</sup> Rogers applied the method to therapy as well as human resource management.

Empathic listening skills are critical to the practitioner of Party-Directed Mediation. When an individual feels understood, an enormous emotional burden is lifted, stress and defensiveness are reduced, and clarity increases. Furthermore, the contenders will greatly improve their own negotiation skills as they master empathic listening.

### **Listening in Interpersonal Communication**

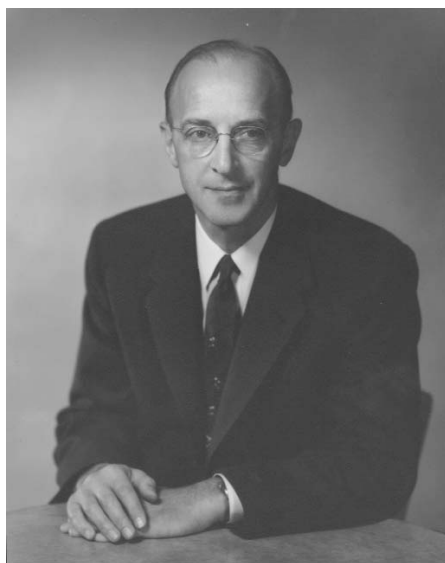
We spend a large portion of our waking hours conversing and listening. When two friends or colleagues have an engaging dialogue, they often compete to speak and share ideas. Listening plays an important role in such stimulating exchanges. When it comes to empathic listening, we do not vie to be heard, nor do we take turns speaking. Rather, we are there to motivate and cheer the other person on.

Empathic listening requires a subset of proficiencies different from that used in conversing, and it is surely an acquired skill. Many individuals, at first, find the process somewhat uncomfortable. Furthermore, people are often surprised at the exertion required to become a competent listener. Once the skill is attained, there is nothing automatic about it. In order to truly listen, we must set aside sufficient time to do so.

Perhaps making time is at the root of the challenge. People frequently lose patience when listening to others' problems.

*Carl Rogers modeled the empathic listening approach in his book *Client-Centered Therapy*.*

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Carl R. Rogers Collection, HPA, Ms. 32, Department of Special Collections, Davidson Library, University of California, Santa Barbara.

Empathic listening is incompatible with being in a hurry or with the fast-paced world around us. Such careful listening requires that we, at least for the moment, slow down and suspend our own thoughts and needs. Clearly, there are no shortcuts to empathic listening.

Some of the dialogues in this chapter are video transcripts made possible by generous volunteers. It is my goal to give life to some of these clips, so as to illustrate what it means to listen empathically.

I challenge the reader to put aside any preconceived notions about effective listening. In order to more clearly illustrate empathic listening, I will include both positive and negative examples.

Effective listening and attending skills can be applied to all of our interpersonal and business relationships. We will become more effective listeners as we practice at home, in our business dealings, and in other circles. One of the greatest gifts we can give another is that of truly listening.

## Different Approaches to Listening

One listening model involves a three-step process: (1) attentive listening, (2) asking diagnostic questions, and (3) offering a prescription, or solution. Slowly, or sometimes quite abruptly, people move from listening to prescribing. It is not uncommon for a helper (e.g., friend, listener, mediator) to focus on the third of these steps—offering advice—even when none is sought. At times individuals may utilize the first two steps. Perhaps most uncommon is an emphasis on listening alone.

Specific situations may call for different responses. When there is little time, or in dangerous situations, people may offer advice. For matters of a technical nature, the three-way process of listening, diagnosing, and prescribing is often preferable. After prescribing, it is helpful to take a step back and determine how the individual feels about the proposed solution. A related tactic involves going through the first two steps and then involving the party in examining alternative solutions. When the solution is owned by the individuals facing the challenge, as is often the case in deep-seated interpersonal conflict, a listening approach is most advantageous. This is where empathic listening fits in. Let us consider these phases in reverse order.

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### PRESCRIPTIVE PHASE

The majority of individuals may begin with intentions of listening but quickly transition into the diagnostic and prescriptive phases. People accustomed to solving problems often listen with this frame of mind. Others focus on sympathy. Sharing a story of how a similar difficulty was faced is not much better. Nor is being quiet so a person will hurry up and finish. None of these is a helpful response to venting. Each reflects, among other things, a certain amount of impatience. When people are not paying attention we can often see it in their body language, as Nichols describes in *The Lost Art of Listening*: “The automatic smile, the hit-and-run question, the restless look in their eyes when we start to talk.”<sup>2</sup>

It seems easy to solve other people's problems. Individuals habitually say, "If I were in *your* position, I would have . . ." Perhaps. Maybe we would have solved the dilemma had we been in their place. Different personality types approach specific challenges in predictable ways, with foreseeable results. For instance, some people would not dream of confronting their friends, but instead would let irritations fester. Many others have trouble keeping their opinions to themselves.

Have you noticed that some of your acquaintances seem to repeatedly fall into the same types of predicaments, giving the impression they did not learn from experience? Each of us has different personality traits and skill sets that permit us to solve some challenges more easily than others.

Occasionally we think we would have solved a person's dilemma had we been given the chance to do so. Instead, when we find ourselves in the same predicament, we often feel just as unsure about how to proceed.

We are all too ready to give advice. Years ago, on the way home from a father-daughter date, I asked Cristina, my youngest,

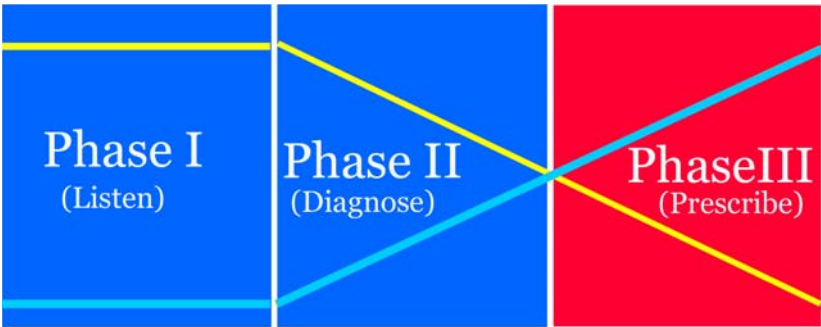


FIGURE 2-1

*The listening process is often divided into three phases. In the first phase, the helper (bottom line) permits the person with the challenge (top line) to do most of the talking. Note that in the diagnostic phase, the helper begins to speak more. In the prescriptive phase, the helper ends up doing most of the talking. The third phase is often colored red as a warning that the parties are stepping into dangerous territory.*



if I could give her some free advice. “I certainly don’t plan to pay for it,” she quipped.

On another occasion a young woman came to see me. Sofía could not perceive how giving the cold shoulder to Patricia—who had been her best friend at the university—was not only a cause of pain to Patricia but also a way to further escalate the growing conflict between the two.

“I no longer speak to Patricia when I see her,” Sofía began. “Her cold attitude hurts. She never greets me, and that really upsets me. She used to be very kind. But you know, now, when she tries to come over and speak to me, I pretend I haven’t noticed her and look away.”

“How do you expect your friend to act in a warm way towards you if you give her the cold shoulder when she tries to speak to you?” I inquired, stating the obvious.

I should have kept the comment to myself. Sofía was upset by my counsel and avoided me for some time. A few weeks later she came to see me again. This time I listened empathically. Rather than stating the obvious, I was attentive while Sofía described, in full detail, the ache she was feeling, the history of the conflict, her suffering and hopes. Sofía felt heard and was able to take some preliminary steps towards resolving her challenge.

Our effectiveness as listeners is often lost if we solve the problem before the person we are attempting to help does. Some try unsuccessfully to disguise advice-giving tactics through such questions as “Don’t you think that . . . ?” or “Have you tried . . . ?”

Aaliyah is very concerned about her grown daughter and has been openly disclosing her worries to her friend Shanise. Let us listen in on their conversation.

“These are the problems I have with my daughter,” Aaliyah shares, anguish punctuating each word. “I want to seek her out, try and speak with her, try and have her understand, but she doesn’t listen to me. [Pause] I simply don’t know what to do. I feel incapable of helping her.”

“If you could get her professional help, would she go?” Shanise proposes.

“Uh. As I was telling you, she doesn’t listen to me. When I try and speak to her, give her advice, then she changes topics. That is the problem I have—that I seek her out but she doesn’t listen to me,” Aaliyah insists.

Aaliyah considers Shanise’s contribution a distraction and momentarily loses track of what she was saying. Aaliyah eventually takes back control of the conversation. Because Shanise has been showing empathy to this point, Aaliyah forgives the interruption.

People such as Aaliyah seem to be asking for a solution when they say “I don’t know what to do.” Perhaps they even ask for advice, imploring, “What should I do?” The listener ought not rush in with a prescription. It is worthwhile, at least, to say something like “You are unsure as to how to proceed.” It is a statement, not a question. If the person says something like “Exactly!” and continues to speak, then the helper has hit the mark. If, instead, the individual continues to ask for suggestions, the listener can help the person explore options.

In a listening skills workshop, John, one of the participants, shared some real concerns facing his enterprise. “Our top manager seems unsure as to how to proceed with such a delicate issue,” John explained. “He simply doesn’t know what to do about these two guys who won’t speak to each other.” After a while, I stopped the role-playing to give the listener some ideas on how to keep John talking. Interrupting me, John explained that he did not want to “play the listening game”—he simply wanted a solution.

This was an ideal opportunity to illustrate some vital points. When workshop participants listen to people with real hardships, everything they have learned so far in the seminar can fly out the window. Rather than analyze the quality of the listening, participants are all too often ready to suggest additional solutions.

Seminar participants were permitted to go around the table prescribing solutions. But not before being warned that they were entering the prescriptive phase, which I have labeled red for danger. Suggestions started flying.

“Obviously, John,” the first participant began, “you must insist on having the supervisor speak with both individuals.”

“What I would do instead . . . ,” another piped in.

It soon became clear that, despite John’s request for a ready-made solution, these suggestions were irritating him. John admitted he would have preferred to continue to think aloud with the support of the class participants.

*Sympathy* is quite different from empathy. It often springs more from our desire for normality than from our desire for helping. One of my favorite illustrations that contrasts sympathy with empathy comes from Alfred Benjamin’s *The Helping Interview*: “When Lucy said, ‘I’ll never get married now that I’m [disabled],’ what did you do? You know you felt terrible; you felt that the whole world had caved in on her. But what did you say? What did you show?”<sup>3</sup>

If Lucy were your seventeen-year-old daughter, niece, or younger sister—I often ask—what would you like to say to her? Some of the most frequent responses include:

- “Your internal beauty is more important than outward appearances.”
- “I still find you beautiful.”
- “If a young man cannot see your beauty, he is not worthy of you.”
- “Modern medicine can work miracles, and perhaps you can recover beyond expectation.”

Benjamin continues:

Did you help her to bring it out; to say it, all of it; to hear it and examine it? You almost said: “Don’t be foolish. You’re young and pretty and smart, and who knows, perhaps . . .” But you didn’t. You had said similar things to patients in the hospital until you learned that it closed them off. So this time you simply looked at her and weren’t afraid to feel what you both felt. Then you said, “You feel right now that your whole life has been ruined by this accident.” “That’s just it,” she retorted, crying bitterly. After awhile she continued talking. She was still [disabled], but you hadn’t gotten in the way of her hating it and confronting it.<sup>4</sup>



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*The role of an empathic listener is to accompany another person and celebrate together the fact that the other can begin to unpack and analyze the difficulties being faced.*

In my opinion, many of these comments about her beauty and intelligence may be shared, but later, *after* Lucy feels truly heard and does not have more to say herself.

There are numerous ways we discount the needs of others, even when we think we are being good listeners. For instance, we may attempt to share our own stories of loss, disappointment, or success before the individuals we are listening to have had the opportunity to be heard. We may feel that sharing our own stories proves that we are listening, but instead, the other person feels we have stolen the show.<sup>5</sup> Once again, this is not to say there is no room to share our stories with others, but rather, we should hear them out first.

Some people confuse empathic listening with being silent. First attempts to listen empathically are often betrayed by facial and body language that says “Be quiet, so I can give you some good advice.” Have you ever tried to speak to individuals who give no indication of what they are thinking? We do not know if they have lost interest or are judging us.

When people have deep sentiments to share, rarely do they expose their vulnerability by getting to the point right away. Ordinarily, the topic is examined through increasingly constricting circles. It can also be compared to an iceberg. Only an eighth protrudes at the surface, while the rest remains submerged in the ocean. When someone says, “I am worried because . . .,” and another responds “Don’t worry so much,” the worried person does not cease to be concerned. Rather, it becomes clear that the apprehension cannot be safely shared with such an individual. Likewise, when a person proceeds to give a suggestion before understanding the situation, individuals will frequently pretend to go along with the proposal simply to get rid of the problem solver.

## DIAGNOSTIC PHASE

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Perhaps the greatest danger with the process of diagnosing is the natural tendency to move from listening, to diagnosing, to prescribing. Rarely do people reverse the process and return to listening after entering the diagnostic phase. It is much more likely that they will be swept up by the turbulent current that takes them to the prescription mode.

I do not wish to imply that the diagnostic process has no value. A useful advantage of the diagnostic process is that the listener can, at least at a superficial level, gain a better idea of what the challenge entails. Indeed, people frequently give too little attention to diagnosis. But in the process of empathic listening, the diagnosis needs to be carried out by the troubled person rather than by the listener. An emphasis on diagnostics betrays a perspective in which the intermediary is the provider of all wisdom.

Often, individuals listen and ask questions with the idea of confirming their own observations. A much more effective method, according to the authors of *Narrative Mediation*, is to be moved by a spirit of curiosity. Such an approach has been called a stance of deliberate ignorance. Instead of assuming that a certain experience is the same as another we have gone through or heard of, we listen with interest and curiosity. Inquisitive listeners, according to John Winslade and Gerald Monk, “never assume that they understand the meaning of an action, an event, or a word.”<sup>6</sup>

Let us return to the conversation between Aaliyah and Shanise.

“My husband doesn’t help me resolve my problem with my daughter,” Aaliyah laments.

Shanise asks a couple of investigative questions: “What would he like you to do? Not to have any contact with her?”

“Well, we quarrel a lot because I tell him I’m a mother. [Pause] And he doesn’t feel what I feel. And he doesn’t want me to seek her out because, after all, she doesn’t listen, and the situation will not improve. But I always seek her out. [Long pause] And I told her not to be wandering about aimlessly—to come to my home, but she won’t, she says that . . .,” Aaliyah continues, a narrative born of a mother’s pain.

The questions have helped Shanise understand the situation a bit better. Observe, however, that Aaliyah, after answering, returns to speaking about that which hurts her the most: her inability to help her daughter.

Here is another example of an investigative question. Once again, we pick up in the middle of a conversation:

“So that is the challenge I’ve been facing with one of our engineers,” says Raymond.

“In the morning or afternoon?” inquires Paul.

“I’ve been wondering if there’s a pattern indeed—if this happens on Mondays, or if there is anything predictable in all of this,” Raymond answers. “The truth is that I haven’t found anything obvious.”

“Have you sat down with him and spoken about your concern?” Paul asks.

This conversation follows a pattern. Paul asks a question. Raymond answers and then waits for Paul’s next inquiry. Pauses become an excuse to interrupt. Paul has control over the conversation, and his worried tone betrays the responsibility he feels for solving Raymond’s challenge. While Raymond may feel heard, such comprehension tends to be somewhat superficial. Raymond is not working as hard as he could to solve his own problem. Instead, he seems to be saying, “Go ahead, Paul. Be my guest. See if you can solve this mess. I dare you! I sure haven’t been able to.”

There are other types of questions, such as those that promote talking about feelings. Manuel tells his wife, Magdalena, that despite the international acclaim his work has received in New York, he is unsure whether they should remain in the United States or return to their native Argentina. While Magdalena has heard her husband in the past, her current focus is to let her husband vent:

“That is the problem: to stay or return to Argentina?” Manuel sighs.

“What is it that you really miss from Argentina?” Magdalena inquires.

“Well, that’s what we were talking about recently . . . one misses the family . . . family relations . . . Sundays with the extended family and the kids . . . but I also miss my friends. I had a huge group of friends . . .,” Manuel continues speaking and sharing his concerns. Magdalena’s question has permitted Manuel to examine his feelings.

When a question is asked to help someone take control of the conversation, it serves to *prime the pump*. Old-fashioned water pumps functioned through a lever and a vacuum. It took effort to make them start pumping water, but much less once the water started flowing. Prime-the-pump questions are especially useful to help individuals start speaking. Or take back control of the conversation, especially after an interruption (e.g., after the conversation stops when a third person momentarily walks into

the room, when the conversation is being renewed after a few days, or when listeners realize they have interrupted or taken an overly directive approach to listening).

There are several types of questions, comments, and gestures that can help prime the pump. These may include, for example:

- Investigative questions
- Analytical comments
- Summaries of what has been heard
- Invitations for the person to say more
- Body language that shows interest
- Empathic comments

## EMPATHIC LISTENING

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A mother tells of an experience with her young child: “Years ago one of our daughters asked me to come outside and play tetherball with her. She told me to sit down and watch as she hit over and over again a ball on a rope that wound itself around a pole. After watching several windings I asked what my part was in the game, and she said, ‘Oh, Mom, you say, “Good job, good job,” every time the ball goes around the pole.’”<sup>7</sup>

This is, essentially, the role of empathic listening—that of patiently accompanying another while they begin to unpack and analyze the difficulties being faced. In the child’s game, success is measured by the ability to wrap the ball’s tether around the post. In empathic listening, success is measured by the ability to help someone dislodge pain-soaked discourse and let it float to the surface. The speaker guides the direction of the conversation and is often surprised to find where the venting takes him or her.

I shall attempt to describe, in a more detailed way, how to accompany without interfering. There is a marvelously therapeutic power in the ability to think aloud and share a quandary with someone who will listen.

In contrast to the diagnostic approach to helping, the empathic mediator:

- Motivates the parties to speak without feeling judged
- Does not use pauses as an excuse to interrupt
- Permits the speaker to direct the conversation



If the intermediary earns their confidence through this process, individuals begin to:

- Speak more (easily 97 percent of the conversation)
- Control the direction of the account
- Increase self-understanding (first, by reviewing what is known, and later, by digging deeper)
- Consider options and choose a possible outcome

A warning is in order. Empathic listening is dynamic. It is not sufficient to have an interest in another; the mediator must also *show* it. And it is not sufficient to show an interest; the intermediary must *feel* it. The person being heard immediately notices if the mediator seems bored, distracted, or upset.

In the words of Alfred Benjamin, “Genuine listening is hard work; there is little about it that is mechanical . . . We hear with our ears, but we listen with our eyes and mind and heart and skin and guts as well.”<sup>8</sup>

### **Dangling Questions**

An incomplete question gives the other person control of the conversation. Let us return to the Argentine couple.

“And the children . . . miss . . . ?” Magdalena asks, prolonging the word *miss*.

“And the children miss . . . much, especially the . . . affection of their grandmothers, cousins. Undoubtedly they miss the whole family structure . . .,” Manuel explains as he continues to uncover the issues that are troubling him.

### **Indications That We Want to Know More**

There are many ways we can signal an interest in listening and learning more. One of the most typical is simply to say, “Tell me more.” We could also say something like “How interesting!” or simply “Interesting.”

Brief, empathic noises or comments such as “yes,” “a-ha,” and “mm-hmm” are also very powerful. Discourse analysis scholars sometimes call these expressions *positive minimal responses*. The

key is not getting stuck with one monotonous, irritating technique.

### **Repeating a Phrase or Key Word**

Another empathic listening technique is repeating, from time to time, one word, or a few, in the same tone of voice the speaker used. Aaliyah continues to share with Shanise the pain she is feeling because of her daughter:

“She moved and now lives in a nearby town with a friend,” Aaliyah gestures with her left hand indicating the direction.

“Friend,” Shanise repeats.

“Yes, but she won’t last long. She doesn’t work, and she won’t be able to live there for free,” Aaliyah continues. “She must contribute something, too.”

Empathic repetitions contribute to the process without overly interrupting. There are times when the conversational flow is briefly paused—usually the first time the technique is used—while the speaker reflects on the repeated words. But normally it happens in a very natural fashion. Speakers have the option of continuing what they are saying or further reflecting on the comment. Let us look at the technique as used by the Argentine couple.

“It’s true that the cost of education in this country is high, but the possibilities are infinite,” Manuel declares.

“Infinite,” Magdalena repeats, using the same tone.

“Infinite . . . Infinite in the sense that if we can provide support for the children and motivate them to study . . .,” Manuel continues, developing his thinking.

Critics have accused Carl Rogers of being directive. They claim empathic responses reward the speaker for concentrating on topics the listener wants them to focus on. My research, however, shows that when a person is interrupted by an empathic listener—with a distracting observation or comment—the speaker makes it clear that it was an interruption. Unless the disruption constitutes a serious breach of trust, the party continues to speak and control the conversation.

Mekelle, a young African American professional, is telling Susan that her best friend, Palad, is angry with her because her fiancé is Caucasian. The conversation proceeds normally until Susan asks a question that distracts Mekelle.

“My friend Palad . . . it bothers me—as bright and perceptive as he is—he cannot see that in reality, if one were to educate more people . . .,” Mekelle explains, expressing her frustration.

“Yes,” Susan adds, following the conversation.

“Then, he wouldn’t feel the way he feels. You understand?” Mekelle asks a question that rather means “Are you listening to me? Are you following my logic?”

“Where is Palad from?” Susan interrupts. The question has no relationship to the anguish Mekelle is feeling.

“Palad is from Florida. He has lived several years in California. He’s now living in Oregon,” Mekelle answers.

“But . . .” Having lost track of what she was saying, Mekelle waves her hand, as if to say “Let’s get back to the topic.” She continues “But . . . and it is only about Caucasian people. He only has problems with Caucasian people,” Mekelle smiles. “If the person were from any other race it wouldn’t matter, but when it’s a matter of a Caucasian person . . .”

Mekelle has taken back control of the conversation, despite the interruption. People often regain control by using the word *but*. It is also common for individuals to gesture or move a hand meaning “As I was saying,” or “Do not interrupt.”

### **Empathic Sayings**

An empathic saying is a longer comment, of a reflective type, given to let individuals know we are following them. We might say something like “At this moment you feel terrible,” or “I can see you are suffering.” When used sparingly, these expressions can be very potent.

A troubled youth approached me one day. “I hate life,” he said. The loud, bitter comment filled the room. How I wanted to moralize and tell him that his own actions had placed him in the present predicament. Instead, I calmly stated, *à la* Rogers, “Right

now, you are hating life.” I was trying to truly comprehend and letting him know that I was listening.

“Oh, yes,” he continued, but the anger lessened enormously. “Life, right now, is terrible!” With each subsequent exchange, the tension and volume of his voice subsided. This same youth soon recognized that he was not walking down the right path, without my having to say it.

In contrast, I observed a speaker—a therapist by training—who freely used the line “I can see you are hurting.” As the conference Spanish-language interpreter, I was in a unique position to observe the audience. An older man told his heartbreaking anecdote, and the speaker used his line at what seemed the perfect moment. The participant stopped talking and leaned back. I could see in his eyes and body posture that he had felt empathy from the therapist. The man had been touched and now felt understood. I was impressed. It seemed to me, however, that with each subsequent use of “I can see you are hurting,” the catchy phrase became increasingly artificial. The magic was gone. Fewer people were convinced of its sincerity, and the expression soon meant “Be quiet. I want to move on with my talk.” The process had become mechanical and empty, rather than based on true empathy.

How do we know if the listening approach is empathic? Gerard Egan says, “If the helper’s empathic response is accurate, the client often tends to confirm its accuracy by a nod or some other nonverbal cue or by a phrase such as ‘that’s right’ or ‘exactly.’ This is usually followed by a further, usually more specific, elaboration of the problem situation.”<sup>9</sup> And when we are off the mark, sometimes the speaker will say so. Just as likely, the person will be quiet and avoid eye contact.

### **Empathic Questions**

In contrast to diagnostic questions, especially those analytical in nature, empathic queries go to the source of what the person is *feeling*. These questions regarding affect are very powerful, yet less dangerous. They promote talking rather than silence. In effect they are prime-the-pump questions. An example is “What are you

feeling at this moment?” Or without completing the phrase, the listener may stretch out the word *feeling*: “You are *feel-ing* . . . ?”

The strength of empathic questions is that they help expose and dissipate negative feelings.

### **Body Language**

One of the best steps, in terms of body language, is to invite the person to take a seat. By so doing, we let people know we are willing to listen—that we are not going to ration out time.

We may also show interest by occasionally leaning forward toward the speaker. Interest is reflected in facial expressions, head movement, gestures, and tone of voice. As with all of the techniques we have discussed, variety is critical. Otherwise, if we keep mechanically shaking our heads, we will soon look like the bobbleheads in the back windows of cars.

If we are truly interested in listening, our body language shows it. Our non-verbal communication also betrays us when we get distracted. During a Negotiated Performance Appraisal, I had been listening attentively for quite some time. I had not yet said anything but must have shown intentions of interrupting. Before I could utter a word, the person who had been speaking said, “Excuse me for interrupting you, but . . . ,” and she continued relating her account. This happened several times, proving what communication experts have told us all along: individuals signal their intent to interrupt before doing so.

### **Respecting Pauses**

Silence makes people uncomfortable. Yet, one of the most important empathic listening skills is not interrupting periods of silence. When people pause, they continue to think about their troubles. By not interrupting, we are in essence offering the person a *psychological chair* to sit on; it is a way of saying “I am not going to abandon you.”

The person who feels truly heard begins to speak more slowly and to pause more often. When individuals sense they will not be interrupted, they embark on an internal trajectory, every time deeper, wherein they commence to intensify the process of self-

understanding and analytical thinking. Many listeners—who found it difficult enough to be patient when the other person was speaking at a normal speed—find this slower pace torturous. Yet, this is part of the gift of empathic listening.

How long can you endure a pause without getting impatient? Four seconds? Eleven seconds? One minute? Ten minutes? Often, the individual coming out of this pause will have undergone some serious reflective thinking.

A young professional reported that she had put this advice to work. After a mediation and listening skills seminar she called her boyfriend. He had been experiencing some tribulations. “I had to bite my lips several times,” she reported. “But I managed not to interrupt him. After a long pause he asked me, ‘Are you there?’”

The disadvantage of the phone is that fewer empathic responses are available to the listener. The young woman’s boyfriend could not see the interest with which she had been listening. She responded, “Of course! I’m very interested.” Once these words were pronounced, he continued talking, this time with even more enthusiasm and penetration.

To conclude this subsection, let us review two more clips from our friend, Mekelle. In the first one, she speaks of her desire to make a decision and resolve her difficulty. This comment comes after she has had a long time to vent her emotions.

“I know I must call Palad again and have another conversation with him,” Mekelle resolved. “I haven’t decided . . . yet . . . when I will call him. [Long pause] Yeah . . . that’s where I find myself at the moment . . . I’ll probably find a moment to call him next week. I always like to plan this type of thing.” And laughing, she adds: “I am not ready to speak with him at this moment.”

Susan is accompanying Mekelle, and laughs when she laughs. “Not at this moment . . .”

“Right. Perhaps I should call him some day when I’m mad.” Mekelle laughs again. “But, hmm . . . it’s beginning to weigh on me . . . this lets me know I ought to call now.”

In the second clip, Mekelle speaks about the gratitude she is feeling for having been heard.

“The really interesting thing to me is that I generally am not one to share my feelings. I tend to keep them buried and let other people tell me how they feel.”

“Mmm,” Susan listens.

After several false starts, Mekelle finally says, “This whole process . . . of realizing I’m still mad at him—because I didn’t know I was still mad at him—is very interesting . . . to me, that is.” Mekelle once again attempts to speak between her own pauses. Finally, asserting herself, and drawing out the word *mad* each time she uses it, she says: “I ask myself, ‘Why, exactly are you mad? You know? Should you be mad? You could be disappointed. But mad? Especially since he didn’t do anything to you.’ By that I mean he didn’t use offensive language, he didn’t hit me.” After another pause, she continues, “I feel he disappointed me. I want to ask him, ‘How can you be so intelligent and think like that?’”

A person who uses the purely empathic listening approach will have to dedicate large blocks of time to it. Empathic listening, as used in Party-Directed Mediation, can easily last an hour or two. A single pre-caucus may not provide sufficient time to listen empathically when a person has been involved in a prolonged hurtful conflict.

## RECONCILING EMPATHIC LISTENING WITH OUR BELIEF SYSTEMS

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Throughout the years, I have read numerous books about empathic listening. Some of its distinguished proponents suggest there is no such thing as *absolute truth*. My challenge, however, was the need to reconcile such a stance with the incredibly positive results obtained by the methodology. You see, I am a strong proponent of the existence of absolute truth, of right and wrong, of good and evil.

For instance, Rogers did not moralize, no matter how horrible his clients’ comments were. Nor, to his defense, did he patronize people who felt troubled or tell them it was normal to feel a certain way. When a client said she really hated her mother and



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*Some hand gestures, such as the flat hand with the fingers raised, often mean “Don’t interrupt. I have more to say.”*

would be glad to see her dead, Rogers listened. Soon, his client would say, “Well, actually I don’t hate her totally. I also really love her, and I wouldn’t want her to be dead.” Through several transcripts of Rogers’ sessions with clients, this pattern is repeated. Each time, the client seems to make good decisions, backing away from hurtful, destructive approaches.<sup>10</sup> From my experience observing how poorly people listen, I suspect most would benefit from reading Rogers.

But returning to my dilemma, how could I reconcile my belief structure with being a good listener? Or how about situations involving people who are blind to the most basic common sense? For instance, how should I respond to individuals who say they are starving for the affection of family members or former friends



yet are doing everything in their power to reject those persons?

On reflection, I arrived at these conclusions: (1) When people are truly heard, they will often come to their own correct insights. But if their assumptions are still faulty, (2) by the very process of truly listening, the helper will earn the right to *challenge blind spots*. There will be moments when listeners have the right—or, should we say, obligation—to speak their truth.

During the process of empathic listening in the pre-caucus, people who feel listened to begin to see how they have contributed to the conflict. For this mediation model to work, it is necessary to have confidence in the goodness of people. We must believe that individuals, when given the opportunity to reflect and reconsider, will find the path that is necessary to leave the darkness behind. Party-Directed Mediation does not function unless the parties are essentially good people. If this is not the case, other mediation models will be more effective.

Goodwill deposits, earned through the listening process, are required before the mediator earns the right to challenge an individual. After listening, concerns may be calmly raised if it becomes necessary.

Despite all that has been said in this chapter, there will be times when the mediator's values are incompatible with those of one or more of the parties. Mediators should not suggest that people violate their own principles or belief systems, nor should anyone expect a third party to be amoral. Likewise, such a quandary may occur with empathic listening in general. If a friend tells me he is thinking of being unfaithful to his wife, and if he does not reconsider during the process of being heard, I think it would be a great fault on my part to keep silent.

There may be times, then, when empathic listeners may need to share their value systems. Often, people will seek the intermediary's opinion out of respect for the person's values. One of the leading experts on empathic listening and challenging, Gerard Egan, suggests that living by a value system may well be a prerequisite to properly challenging others,<sup>11</sup> a topic we will pick up in the next chapter.

## SUMMARY

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Through the process of being heard empathically, each party in a conflict will control the direction, pace, and final destiny of the exploratory expedition. The contenders in the discord will have to do most of the hard work. Yet, these individuals will not be left alone during their difficult voyages. Empathic listening permits those who own the problem to begin to hear themselves. And as they hear themselves, they become better equipped to hear others and solve their own disputes. The empathic listening approach permits the individuals being heard to sufficiently distance themselves from the challenge so as to see it with more clarity.



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There is great therapeutic value in being able to think aloud and share a problem with someone who will listen. Good listeners have enough self-confidence to hear others explain their difficulties despite the absence of any apparent solutions.

FIGURE 2-2

*People who are interested in what others are saying will show it through their body language.*

Part of being a good listener may require consciously fighting to keep an open mind and avoid preconceived conclusions. Mediators may want to continually assess their listening style, making sure that they show interest, avoid being judgmental, and permit the person with the problem to do most of the talking. They should welcome long pauses.

Ultimately, the key is to have confidence in the process, knowing that the listener does not need to come up with a solution, but rather, should simply listen.

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*One of the greatest gifts we can give each other is  
that of truly listening.*