

Active Listening, Procedural Fairness and the Legitimacy of Community Mediation

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ABSTRACT

Active listening is widely recognised as a core competency in mediation, yet its procedural, psychological and socio-cultural significance in community mediation remains under-examined. This article argues that active listening forms the foundation of mediator neutrality, party trust and the perceived fairness of the mediation process, thereby determining whether mediated settlements endure. Grounded in the principles of natural justice, where *audi alteram partem* requires that parties not only speak but be genuinely heard, and *nemo iudex in causa sua* demands the appearance of neutrality, the article demonstrates that listening operates as a behavioural expression of fairness within a non-adjudicative framework. Drawing on historical and anthropological traditions in Asia, including Malay *muafakat*, Japanese conciliation norms and the consensus-based practices of indigenous Malaysian communities, the analysis illustrates that attentive listening has long been associated with moral authority and the preservation of social harmony. Through engagement with leading mediation scholarship, the article contrasts the limitations of passive listening with the transformative effects of active listening, which facilitates emotional ventilation, improves cognitive clarity, mitigates attribution bias and supports mutual understanding. In multicultural settings such as Malaysia, active listening must also be culturally adaptive to avoid misinterpretation of silence, eye contact or gesture. The study further clarifies its conceptual and methodological scope, positioning active listening as both an ethical and behavioural foundation for legitimacy in community mediation, and identifies future pathways for empirical validation across diverse cultural contexts. By integrating doctrinal reasoning, psychological insight and cultural context, this article concludes that active listening is not an optional technique but the ethical and structural foundation of community mediation, essential for achieving legitimacy, maintaining neutrality and producing durable, voluntary agreements.

Keywords: Active listening, community mediation, natural justice, cultural sensitivity, durable agreements

INTRODUCTION

Community mediation has emerged as a vital mechanism for resolving interpersonal, neighbourhood, and small-scale communal disputes without recourse to formal adjudication. Although mediation is widely promoted as a flexible, cost-effective and relationship-preserving alternative, its success depends fundamentally on the manner in which communication is facilitated. The mediator's ability to listen actively is central to this facilitative function. Listening is not merely an interpersonal skill; in community mediation it becomes an ethical responsibility, a procedural safeguard and a cultural expectation. It determines whether parties feel respected, whether the mediator appears neutral, and ultimately whether agreements reached are sustainable.

Listening in mediation is commonly misunderstood as a passive act, synonymous with silence or non-interruption. However, mediation literature consistently clarifies that listening is an active cognitive, emotional and relational process. Mediators must signal understanding, recognise emotions, interpret meaning, and guide parties towards clarity and mutual recognition. As Bullen (2012) notes, listening is a learnable discipline, requiring conscious engagement rather than natural hearing. The distinction between hearing and listening

becomes particularly crucial in conflict contexts, where emotions, assumptions and communication barriers impede understanding.

This article explores the doctrinal, historical, cultural and psychological significance of active listening in community mediation. It argues that listening is not an optional mediation technique, but the foundational feature upon which legitimacy, fairness and durability rest. The discussion begins by tracing the history of community-based dispute resolution in Malaysia, Japan and other Asian societies, demonstrating that listening has always been embedded in traditional models of consensus-building. The analysis then examines the structure of community mediation, highlighting the mediator's role in managing communication and creating a safe space for dialogue. This sets the stage for a detailed analysis of listening styles, distinguishing between passive and active listening, and explaining why only the latter aligns with the aims of mediation.

The article further integrates principles of natural justice, illustrating how active listening operationalises the right to be heard and the requirement of neutrality within a non-adversarial process. It also incorporates insights from psychology to show how active listening reduces emotional defensiveness, facilitates cognitive clarity, and enhances the likelihood of voluntary compliance with settlement terms. Finally, the article demonstrates that durable agreements, the hallmark of successful mediation, depend on the mediator's ability to listen in ways that validate identity, preserve dignity and foster trust. Active listening is thus positioned as the behavioural expression of fairness, the cultural marker of respect, and the structural necessity for community-level peacebuilding.

METHODOLOGICAL NOTE

This paper adopts a qualitative–conceptual methodology grounded in doctrinal and theoretical analysis. It integrates scholarship from law, psychology, and communication studies to explain how active listening underpins procedural fairness and legitimacy in community mediation. Data are drawn from secondary sources such as published mediation research, cultural studies, and judicial interpretations of natural justice. The absence of direct fieldwork or observational data limits the study's generalisability across cultural settings, yet the use of cross-disciplinary literature ensures conceptual depth.

Building on this foundation, the paper offers an integrative theoretical framework that synthesises existing legal, psychological, and communication perspectives to explain fairness perception in mediation. While the lack of empirical data constrains causal inference, the conceptual approach enhances theoretical clarity and sets a foundation for future empirical validation. Accordingly, the study positions itself as a theoretical exploration designed to inform future mixed-method research, including discourse analysis, interviews, and comparative studies on how listening behaviours shape trust and settlement durability.

History of Community Mediation

Community mediation, in various forms, predates modern legal systems and continues to be practised across diverse cultural settings. In many Asian societies, dispute resolution has historically prioritised harmony, consensus and relational repair over formal legal adjudication. Long before the development of nation-state court systems, communities relied on respected leaders, elders or appointed intermediaries to manage conflicts through dialogue, compromise and mutual yielding. Hedeem (2004) notes that non-litigious approaches existed widely in Asia, Africa and the Far East prior to the advent of formal state institutions, and were deeply rooted in communal norms and social cohesion.

In Japan, for example, mediation and conciliation have long been associated with social expectations of empathy, mutual consideration and face-saving. Davis (1996) highlights a Japanese proverb stating that “in a quarrel both parties are to be blamed,” reflecting the cultural emphasis on shared responsibility and interpersonal sensitivity. The Japanese approach assumes that conflict resolution requires understanding the emotional condition of the other party, and that maintaining social harmony is more important than asserting individual rights. Empathy therefore becomes an essential component of settlement facilitation, which closely aligns with the communicative demands of active listening.

In Malaysia, similar traditions exist among indigenous communities and rural villages. Among the Orang Asli in Peninsular Malaysia, disputes are often brought before the *Tok Batin* or *Penghulu*, who guides discussions toward consensus. Khan and Hak (2018) note that although community members respect the leader's advice, decisions are ultimately made collectively, ensuring that outcomes reflect mutual agreement rather than imposed authority. The leader's primary function is to listen attentively to all parties, recognise communal expectations, and foster reconciliation. The priority is not to determine fault but to restore relationships and preserve group cohesion.

Malay *kampung* practices also historically emphasised *muafakat*, decision-making through collective deliberation. This approach required extensive listening, patience and moral sensitivity. The process was relational rather than adversarial; parties were expected to articulate concerns respectfully, while leaders ensured that no voice was dismissed or overshadowed.

These traditions illustrate that listening has long held cultural and moral significance in community-level dispute resolution. It signals respect, humility and fairness. Modern community mediation builds upon this historical foundation, integrating it with contemporary theory and structured facilitation techniques. Yet the underlying principle remains the same: disputes can only be resolved when parties feel heard, understood and acknowledged.

Nature of Community Mediation

When conflict emerges within a community, the first instinct of many is to turn to a trusted, neutral individual capable of assisting disputants in managing and resolving their differences. Whether formal or informal, such a person functions as a mediator, someone who facilitates dialogue, enhances understanding and guides parties toward a mutually acceptable resolution. Within the formal system, mediation may be institutionalised through court-annexed mediation or *sulh* processes in Islamic family matters. Beyond the judiciary, numerous community-based programmes, including neighbourhood centres and non-profit initiatives, also employ mediation as a means of strengthening social cohesion and preventing disputes from escalating.

Community mediation focuses not merely on resolving specific disagreements, but on preserving relationships, restoring communication and promoting long-term harmony. Liebmann (1998) highlights that mediation is future-oriented, emphasising forward-looking solutions rather than dwelling on past grievances. Its purpose is not to determine who is right or wrong, but to assist parties in articulating their needs and interests so that they can agree on a workable path forward. The mediator's responsibility is to structure the conversation, create a safe communicative environment and encourage constructive engagement.

However, mediation cannot successfully proceed unless parties listen to one another. Butler (2004) stresses that one of the mediator's primary goals is to help disputants begin listening, since understanding cannot occur in the absence of attentive engagement. Before parties can explore solutions, they must feel that their voice has been acknowledged and that the other side is open to hearing their perspective. Emotional expression, misunderstanding and communication breakdowns often contribute to conflict; therefore, listening becomes the foundation upon which trust and cooperation are rebuilt. Mediators must therefore model effective listening before expecting parties to do the same.

Listening in mediation is not instinctive. While hearing is a sensory process, listening is an intentional act of focusing, interpreting and responding (Bullen, 2012). A person may hear words without truly understanding their meaning, emotional weight or underlying concerns. Mediation requires a higher level of engagement, where the mediator not only registers the parties' words but seeks to understand their subjective experiences, emotional triggers and relational concerns. Different listening styles produce different mediating environments, which in turn affect the likelihood of successful resolution. The following sections examine these distinctions and their implications for community mediation.

Listening in Community Mediation

Listening is central to the mediator's ability to guide parties through conflict. It signals respect, communicates neutrality and provides the foundation for trust. Through listening, the mediator gathers essential information about the nature of the dispute, the interests of each party and the emotional dynamics that need to be managed.

Brown and Marriot (1999) note that although mediators have no decision-making authority, they use techniques, including listening, to help parties negotiate resolutions that suit their needs. Listening thus becomes both an interpersonal skill and a procedural necessity.

Strasser and Randolph (2004) explain that listening reassures parties that the mediator is fully engaged, which is critical given that parties may recount distressing, emotional or personally uncomfortable stories. Mediators often come from varied backgrounds and may not share the cultural or personal experiences of the disputants. For this reason, they must approach listening with cultural sensitivity and emotional discipline. The mediator must avoid allowing personal beliefs or biases to influence their interpretation of the dispute. Walker and Hayes (2006) observed that lawyer-mediators, due to their training, often gravitate toward providing direction or legal framing, whereas non-lawyer mediators may encourage higher levels of party participation. Regardless of background, the mediator's first obligation is to be present and attentive.

Listening must also be non-judgmental. Judgmental listening occurs when the mediator listens superficially while preoccupied with their own thoughts or preparing their next statement. Haynes (2004) warns that such listening results in judgmental responses, which compromise neutrality. Open-minded listening requires setting aside preconceptions and allowing each party's narrative to unfold without interruption or internal critique. This is essential for ensuring that parties perceive the mediator as neutral, even if complete emotional neutrality is impossible. Haynes (2004) acknowledges that while perfect neutrality is unattainable, mediators must maintain balance between the parties so that each receives equal attention and respect.

A related component of listening is acknowledgement. Parties must feel that their emotions, concerns and lived experiences have been heard and validated (Haynes, 2004). Acknowledgement does not imply agreement, but indicates that the mediator comprehends the party's perspective. Without such validation, parties remain defensive and cannot move toward solution-building. Listening therefore becomes the mediator's primary tool for establishing rapport, calming emotional intensity and guiding disputants toward mutual understanding.

Community mediation is particularly dependent on effective listening because it allows direct communication between disputing parties without mediator interference. This direct engagement helps clarify concerns, correct misunderstandings and bring underlying needs to the surface. Dahlan, Md Said and Rajamanickam (2021) observe that when parties are actively involved in shaping their own settlement, the likelihood of compliance increases significantly. Effective listening enables this participation and ensures that solutions reflect the practical realities of the parties' lives.

Listening, however, is not a monolithic practice. The distinctions between passive and active listening have substantial consequences for mediation outcomes. Understanding these differences is crucial for appreciating why only active listening can sustain fairness and achieve durable agreements.

Active Vs. Passive Listening

Listening in mediation exists on a spectrum. At one end is passive listening, an approach marked by silence, minimal engagement and superficial attention. At the other is active listening, a communicative mode characterised by empathic presence, reflective responses and conscious interpretation of meaning. The distinction between these two styles is fundamental because the quality of listening directly affects the legitimacy, fairness and durability of the mediation process.

Passive listening frequently gives the appearance of attentiveness without the substance of engagement. According to the *SAGE Glossary of the Social and Behavioral Sciences* (Sullivan, 2009), passive listening involves receiving another's communication without comment, reaction or interpretive response. Abramson (2004) identifies the typical signals of passive listening, short non-committal responses such as "oh," "I see," or "mmm," accompanied by basic eye contact or nodding. Charlton and Dewdney (2004) add that passive listening may also involve leaning forward or appearing calm and patient, but without demonstrating interpretation or understanding. Parties may be uncertain whether the mediator is genuinely following their narrative.

Some scholars, such as Gray (2016), argue that the term "passive listening" is a misnomer, suggesting that it

should be understood as “silent-receptive” listening. While silence can indeed be a deliberate communicative tool, the danger arises when silence is perceived as indifference or disengagement. In mediation, perception is critical. Hope (2014) remarks that if an observer cannot determine whether listening is taking place, it is unlikely that the parties themselves will recognise it. For this reason, passive listening risks undermining party trust in the mediator’s neutrality and competence.

Active listening, by contrast, is a deliberate, dynamic and participatory process. Domenici and Littlejohn (2001) describe active listening as a communicative act that intentionally seeks to comprehend and accurately interpret the speaker’s message. Bullen (2012) emphasises that active listening is not instinctive; it requires training, discipline and emotional presence. Active listening involves verbal and non-verbal cues, paraphrasing, summarising, reframing, nodding, regulated eye contact, a calm tone and empathic expressions. These cues signal that the listener is not only hearing the words but is attempting to understand the underlying concerns, emotions and motivations.

Strasser and Randolph (2004) stress that active listening enhances trust because it demonstrates the mediator’s willingness to engage with the parties’ lived realities. Mediators convey genuine interest through careful paraphrasing, which reflects comprehension without altering meaning. However, eye contact, a common feature of Western active listening, must be applied with cultural sensitivity. Spencer and Brogan (2006) note that in some cultures, prolonged eye contact may be interpreted as disrespectful or confrontational. Accordingly, culturally adaptive listening may require the mediator to adjust non-verbal cues, such as looking at the forehead instead of direct eye contact, or allowing longer silences when culturally appropriate. Tan (2012) warns against “roving eyes,” which may create nervousness and erode rapport.

Active listening must also be distinguished from sympathy. Meierding (2004) points out that empathy helps parties feel acknowledged, while sympathy risks aligning the mediator emotionally with one side, creating perceptions of bias. Empathic listening supports emotional ventilation and encourages parties to articulate concerns in a controlled environment. Steil (1981) notes that emotional release is necessary before rational negotiation can occur. Through active listening, the mediator helps parties to move from emotionally charged narratives to more structured discussions about interests and needs.

However, active listening requires moderation. Excessive interjections or over-affirmation may distract parties or appear insincere. Striking a balance between presence and restraint is essential. When applied skilfully, active listening becomes the mediator’s primary tool for building trust, establishing neutrality and facilitating meaningful dialogue.

Active Listening and Natural Justice

, depends heavily on parties’ perceptions of fairness. While mediation is not a judicial process, it is nonetheless guided by fundamental principles of natural justice. Two principles are particularly relevant: *audi alteram partem* (“hear the other side”) and *nemo iudex in causa sua* (“no one should be a judge in their own cause”). Active listening operationalises these principles in the mediation context.

The right to be heard is central to procedural fairness. In mediation, this right is not fulfilled simply by allowing parties to speak; it requires that their concerns be genuinely heard and meaningfully acknowledged. If parties feel that the mediator is disengaged, inattentive or indifferent, the right to be heard becomes hollow. Active listening thus functions as the behavioural embodiment of *audi alteram partem*. By paraphrasing, summarising and validating emotions, the mediator demonstrates that each party’s narrative has been taken seriously.

The second principle, *nemo iudex in causa sua*, concerns impartiality. Although mediators do not adjudicate, the appearance of neutrality is essential. If a mediator appears to favour one party, whether through selective listening, sympathetic tone or body language, the legitimacy of the process collapses. Randolph (2016) underscores that when individuals feel unheard, they often resort to adversarial alternatives, believing that only through confrontation will their voices be recognised. A mediator who listens actively and evenly is therefore perceived as neutral, even if complete emotional neutrality is impossible. Haynes (2004) acknowledges that

perfect neutrality cannot be achieved, but what matters is that mediators maintain balanced attention so that both parties perceive fairness.

Listening thus becomes not only a communication skill but a procedural safeguard. When a mediator listens actively, they reinforce the legitimacy of the process. When they fail to do so, mediation risks devolving into coercive negotiation or disguised adjudication. Community mediation relies on voluntariness and trust; active listening sustains both.

However, power asymmetries between mediators and parties, often rooted in differences of social status, gender, age, or education, can subtly shape how fairness is experienced during mediation (Wing, 2009; Jayasundere & Valters, 2014). For instance, community mediators who hold higher social standing may unintentionally command greater deference, while male mediators working with women or younger disputants may dominate conversation flow through tone or interruption. Empirical findings from Sri Lanka show that female participants in local mediation boards often felt constrained by gender and social hierarchies, leading them to accept outcomes they perceived as unfair (Jayasundere & Valters, 2014). Similarly, parties with higher education or linguistic fluency may present arguments more persuasively, gaining disproportionate attention from the mediator (Wing, 2009). To counter these tendencies, mediators must maintain reflexive awareness of their communication patterns, tone, turn-taking, and the distribution of attention, and apply deliberate strategies to balance participation. Techniques such as equal opportunity for narrative sharing, summarising both parties' perspectives in their own words, and using neutral framing have been recommended to minimise perceived bias and restore procedural equality (Narine, 1995). Through such conscious application of balanced active listening, mediators reinforce fairness, inclusion, and legitimacy in the process.

Cultural Context and Listening in Asian Community Mediation

Community mediation does not occur in cultural isolation. Listening behaviours, emotional expression and communication styles vary across societies. Understanding these variations is critical for mediators working in multicultural environments such as Malaysia. Asian dispute resolution traditions have consistently emphasised harmony, relational repair and saving face, all of which are entwined with culturally specific listening practices.

The concept of restorative justice further reinforces this cultural perspective. Listening that validates emotion and acknowledges harm resonates deeply with restorative traditions, where the process aims not only to resolve disputes but to restore relationships and moral balance (Zehr, 2002; Braithwaite, 2004). Thus, active listening becomes both a communicative and moral practice, linking procedural fairness with the broader goal of social restoration.

Japanese conciliation, for example, rests on expectations of empathy, mutual consideration and restrained expression. Davis (1996) notes that Japanese disputants often avoid overt confrontation, relying instead on indirect communication and reading of subtle emotional cues. Mediators must therefore attune themselves to understated signals, making sensitive listening indispensable. Similarly, Malay and indigenous Malaysian approaches emphasise *adat*, respect for elders and harmonious coexistence. Listening is a moral expectation, not merely a communicative task. The *Tok Batin*'s role among the Orang Asli is grounded in the community's trust in his ability to listen attentively and guide discussions toward consensus (Khan & Hak, 2018).

Across Asia, silence is often a meaningful communicative tool rather than a sign of disengagement. Mediators must therefore interpret silence contextually, distinguishing between thoughtful reflection and emotional withdrawal. Similarly, gestures, tone and eye contact vary in meaning. Spencer and Brogan (2006) emphasise that cultural competence is essential to avoid misinterpreting parties' cues. Mediators must therefore adjust their listening practices to align with cultural expectations while maintaining the integrity of active listening.

Active listening is therefore culturally anchored. It must be adapted, not standardised. When listening reflects cultural sensitivity, it enhances trust, preserves dignity and prevents misunderstandings. In multicultural communities, culturally adaptive active listening becomes indispensable to the legitimacy and success of mediation.

Why Active Listening Produces Durable Agreements

While previous sections focused on conceptual relationships, this paper explicitly connects active listening to observable behavioural outcomes, trust, satisfaction, and compliance, three constructs commonly examined in empirical mediation research (Randolph, 2016; Dahlan et al., 2021; Mooly et al., 2020). Active listening fosters trust by assuring parties that the mediator is impartial and attentive, promotes satisfaction by making them feel respected and understood, and strengthens compliance by increasing their willingness to uphold agreements voluntarily. When mediators listen reflectively, validate emotions, and summarise each side's concerns fairly, parties perceive the process as just and participatory. These perceptions transform active listening from a communication skill into a behavioural pathway that links fairness to durable resolution.

The durability of mediated agreements, whether parties comply voluntarily and maintain the settlement over time, depends heavily on the mediator's ability to listen actively. Durable agreements are not merely the result of well-crafted terms but are rooted in psychological acceptance, relational repair and procedural legitimacy. Active listening contributes to each of these elements, making it the central determinant of whether mediation leads to lasting peace or temporary cessation of conflict.

Furthermore, emotional intelligence emerges as an essential dimension of listening competence. Mediators who regulate their own emotions while recognising those of others can engage more empathetically without losing neutrality. This emotional literacy enables the mediator to manage tension and prevent defensive escalation, reinforcing both procedural fairness and relational trust.

Psychological Foundations of Durable Outcomes

At its core, active listening enhances the psychological readiness of disputants to engage in problem-solving. Conflict often generates intense emotions, anger, fear, humiliation, resentment, and these emotions must be expressed and acknowledged before parties can engage rationally. Steil (1981) notes that emotional ventilation is a prerequisite for thoughtful negotiation. Active listening provides a safe space for this ventilation, reducing emotional pressure and allowing parties to articulate concerns more clearly.

Active listening also improves cognitive clarity. When mediators paraphrase or reframe statements, they help parties move from vague complaints to specific, actionable concerns. This shift from emotional generalisation to concrete problem identification is essential for developing realistic and mutually acceptable agreements. When parties understand each other's needs with greater clarity, misunderstandings lessen and agreement terms become more precise, thereby reducing future conflict.

Empirical work on dispute behaviour further shows that when individuals feel heard, their defensiveness decreases and openness increases. Randolph (2016) describes how parties who feel ignored are more likely to escalate conflict, believing that confrontation is the only means of making their grievances known. Active listening interrupts this escalation pathway and transforms adversarial instincts into cooperative engagement.

Behavioural Reciprocity and Cooperation

Active listening fosters behavioural reciprocity, when one person feels listened to, they become more willing to listen to others. This reciprocity is crucial in mediation because disputes often arise from entrenched positions, selective perception and hardened narratives about the other party. Through active listening, mediators model patience, respect and openness, encouraging parties to adopt similar behaviours.

This behavioural mirroring reduces hostility and creates a communicative environment where compromise becomes possible. Butler (2004) emphasises that mediation cannot progress until parties begin to genuinely listen to each other. Active listening by the mediator thus sets the behavioural tone of the session. When one party is heard, they are more likely to acknowledge the humanity and needs of the other, which enhances the chances of mutual concession and shared problem-solving.

Restoration of Relational Trust

Conflicts in community settings often involve ongoing relationships, neighbours, family members or members of the same social network. In such cases, relational trust is essential for long-term stability. Active listening plays a central role in restoring this trust because it counters the relational injuries caused by conflict. Many disputes stem not only from substantive issues but from feelings of disrespect, exclusion or marginalisation.

By listening attentively and acknowledging emotions, mediators validate the parties' experiences. Haynes (2004) stresses that validation reassures parties that their emotions are legitimate and worthy of consideration. Validation does not imply agreement with the party's narrative but demonstrates valuing their perspective. When both parties experience validation, relational tensions soften and parties become more willing to work together on solutions.

Mutual Understanding and Interest-Based Agreements

Durable agreements are those that address underlying needs rather than superficial demands. Active listening allows the mediator to uncover these interests by encouraging parties to articulate the deeper motivations behind their positions. Through reframing, summarisation and reflective responses, the mediator helps parties express their needs in ways that make sense both to themselves and to the other side.

This mutual understanding shifts the focus from positional bargaining to interest-based negotiation. Agreements crafted around interests, such as safety, respect, privacy or predictability, are significantly more stable than agreements based solely on concessions or compromise. When parties understand the rationale behind each term of the settlement, they are more likely to comply voluntarily.

Ownership, Autonomy and Compliance

A defining characteristic of mediation is party autonomy. Unlike adjudication, mediation empowers parties to shape their own outcomes. Active listening enhances this autonomy because it ensures that each party's voice directly influences the final agreement. Parties who feel that the agreement reflects their needs and words experience psychological ownership, which greatly increases compliance.

Brown and Marriot (1999) emphasise that mediators must facilitate, not impose. Passive listening risks creating an environment where one party dominates the narrative, resulting in agreements that feel imbalanced or externally driven. Active listening helps the mediator distribute attention equitably, ensuring that each party contributes meaningfully to the solution.

Community Stability and Social Cohesion

In community mediation, the durability of agreements has broader implications for social harmony. Fragile agreements that quickly unravel can reignite tensions and destabilise the social environment. Durable agreements, by contrast, strengthen interpersonal relationships and reinforce norms of respectful communication.

Active listening contributes to this stability by modelling respectful engagement and supporting relational repair. In multicultural societies like Malaysia, where communication norms differ significantly across ethnic and cultural groups, active listening must also be culturally sensitive. Spencer and Brogan (2006) note that misinterpreting non-verbal cues can exacerbate conflict, while culturally congruent listening can build bridges across differences. When community mediation incorporates culturally adaptive listening, it promotes social cohesion and reduces long-term conflict risks.

Natural Justice and Agreement Legitimacy

As previously discussed, the appearance of fairness is essential for agreement acceptance. Active listening ensures that parties perceive the process as procedurally just. Randolph (2016) vividly describes the consequences of not feeling heard, anger, escalation and resorting to adversarial processes. Conversely, when parties experience fairness through attentive listening, they internalise the outcome as legitimate, even if it requires compromise.

This perception of legitimacy significantly increases agreement durability. Parties comply not because they are compelled, but because they believe the process treated them fairly. In this way, active listening becomes the mediator's most powerful tool for reinforcing natural justice within a non-judicial framework.

Passive Listening and the Risk of Fragile Settlements

Agreements formed in environments characterised by passive listening are inherently unstable. Passive listening fails to provide emotional relief, fails to clarify issues and fails to build relational trust. Bhardwaj (2008) compares passive listening to a tape recorder, something that receives information without demonstrating understanding. Parties who experience passive listening often leave mediation still feeling unheard or misunderstood. This dissatisfaction manifests later in non-compliance, renewed conflict or erosion of trust.

Thus, passive listening undermines the core purpose of mediation, while active listening advances it. Only through active listening can mediators ensure that agreements are psychologically, relationally and procedurally robust.

LIMITATIONS AND FUTURE DIRECTIONS

This study acknowledges certain limitations arising from its conceptual and qualitative orientation. While mixed methods, combining discourse analysis, observation, and participant interviews, could enrich future research on mediator-party dynamics, the present paper adopts a qualitative-conceptual approach by design. This method is particularly suited to exploring normative, ethical, and cultural dimensions of community mediation that are not easily quantifiable. The emphasis on textual, doctrinal, and interpretive analysis allows deeper theoretical integration across law, psychology, and communication studies. Nevertheless, future scholars may extend these foundations through complementary empirical designs, including comparative or cross-cultural case studies, to test how active listening and emotional intelligence influence fairness perception and settlement durability. Such extensions would enhance the generalisability of insights while preserving the interpretive depth that qualitative inquiry provides.

CONCLUSION

Active listening stands at the heart of effective community mediation. Although mediation is grounded in flexibility, voluntariness and cooperative problem-solving, none of these values can be realised unless parties first experience being genuinely heard. This article has demonstrated that active listening is not merely a communication technique but a doctrinal, psychological and cultural necessity. It ensures the perception of fairness required by principles of natural justice, supports emotional processing essential to problem-solving, and fosters the relational trust required for lasting agreements. In multicultural and community-based settings, where disputes often involve ongoing relationships, shared spaces and overlapping social networks, the mediator's ability to listen actively becomes even more critical.

Historically, Asian societies have long recognised the moral and cultural significance of listening in conflict resolution. From Japanese conciliation norms to Malay *muafakat* traditions and the consensus-seeking practices of the Orang Asli, leaders and intermediaries were expected to listen attentively, respectfully and without overt judgment. These traditions continue to influence modern community mediation norms, emphasising that listening is a behavioural expression of respect and social responsibility. Modern mediation frameworks draw upon these roots while integrating contemporary psychological insights that underscore the transformative power of listening.

The distinction between passive and active listening is central to understanding mediation outcomes. Passive listening, which gives the appearance of engagement without substantive processing, undermines trust, creates ambiguity and weakens the legitimacy of the process. Passive listening fails to provide emotional validation, does not clarify misunderstandings, and does not demonstrate the mediator's neutrality. By contrast, active listening requires the mediator to engage with the parties' words, emotions and underlying interests. It involves reflective

responses, empathic engagement and cultural sensitivity. Through active listening, mediators help parties feel acknowledged, mitigate defensiveness, and shift communication from positions to interests.

Active listening also plays a crucial role in producing durable agreements. The durability of a mediated settlement depends on whether parties believe the outcome is fair, whether they understand the terms clearly, and whether they were emotionally ready to negotiate. Active listening supports all three elements. It assures parties that they have been heard, enhances cognitive clarity by helping them articulate their needs and interpret the needs of others, and contributes to behavioural reciprocity that gradually shifts conflict dynamics toward cooperation. Durable agreements arise from psychological ownership and relational repair, outcomes that only active listening can reliably generate.

Furthermore, active listening reinforces the legitimacy of mediation by aligning it with the ethical expectations embedded in natural justice. The right to be heard and the requirement of neutrality are not abstract legal principles; they are experienced in mediation through the mediator's listening behaviour. When mediators listen actively and evenly, they affirm that each party's voice carries equal weight. When they fail to do so, parties may perceive bias, leading to dissatisfaction, non-compliance or re-escalation of conflict. In this regard, listening is not simply a component of mediation but its ethical anchor.

Finally, community mediation exists within broader social ecosystems. When listening is attentive, culturally informed and empathic, mediation strengthens community bonds, enhances social cohesion and prevents minor disputes from hardening into long-term animosities. In diverse societies such as Malaysia, culturally adaptive listening ensures that differences in communication styles do not become sources of further conflict. By contrast, inattentive or insensitive listening risks reinforcing social divides. Active listening therefore serves not only the immediate task of dispute resolution but also the long-term health of community relationships.

By explicitly recognising its methodological scope and proposing future empirical extensions, this paper contributes a clear and reflexive theoretical model. It highlights how mediator behaviour, power sensitivity, and emotional intelligence co-construct fairness perceptions that ultimately determine settlement legitimacy.

In conclusion, active listening is the core determinant of whether community mediation achieves its goals. It sustains fairness, fosters trust, repairs relationships and produces agreements that endure. While many skills contribute to the mediator's effectiveness, active listening is the one skill upon which all others depend. Without active listening, mediation becomes a hollow exercise; with it, mediation becomes a powerful mechanism for restoring dignity, rebuilding understanding and cultivating lasting social harmony.

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