
In Theory

The Mediating Alliance

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This article proposes the conceptualization of the term “mediating alliance” to further the development of theories about success factors in mediation. Extending Bordin’s pan-theoretical conceptualization of the “working alliance” to the field of mediation, we first define the term “mediating alliance.” We then apply research on success factors in mediation to elements of the alliance as it relates to goals, tasks, and bonds developed in the mediation process. We offer the mediating alliance as a framework in which cooperative interaction emerges. At a theoretical level, the mediating alliance, as an integrative framework, contributes to the study of effectiveness in mediation. Methodologically, the operationalization of this concept, based on the theory of speech acts, facilitates the application of a mixed methods approach to future lines of research. At a practical level, this new

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concept, and the results of future research, will allow scholars to develop hypotheses about the effectiveness of communication strategies in mediation that can be applied to the practice of mediation and the training of mediators.

Keywords: mediation, mediator–parties working alliance, effectiveness, cooperation, communicative interaction, mediation process, observational methodology

Introduction

There is an extensive body of literature on the dynamics underlying the effectiveness of mediation and the factors involved in achieving successful mediation outcomes. These factors include cooperation (Zubek et al. 1992; Poitras 2005, 2007; Jameson, Sohan, and Hodge 2014; Boyle 2020), trust (Goldberg 2005; Goldberg and Shaw 2007; Poitras 2009; Jameson et al. 2014; Boyle 2020; Druckman and Donohue 2022), acknowledgment of responsibility (Bush and Folger 2005; Poitras 2007; Jameson et al. 2014), and the power of parties to make decisions for themselves (Bush and Folger 2005, 2015; Boyle 2020; Druckman and Donohue 2022). Notwithstanding this research, an understanding of what happens during the mediation process is limited by the scarcity of observational studies that are needed to advance theoretical development in the field. In particular, there is a need to examine the interaction dynamics between mediators and parties, guided by established theoretical frameworks from other fields that are adapted to the field of mediation (Wall and Dunne 2012). Performing systematic direct and indirect observational studies of real-life mediation will provide new insights into the conversational flow between and among participants. However, performing systematic observational studies of the mediation process is highly challenging for several reasons, including the difficulty of obtaining permission to “sit in” on mediations (Wall and Dunne 2012) and of accessing recorded mediation sessions (Della Noce 1999), and the meticulousness required by this method, especially in the observation of nonverbal behavior, in which multiple nuances must be captured.

Most of the research into factors underlying successful mediation has been conducted through laboratory studies (Olekals and Druckman 2014) or retrospective studies of parties’ and practitioners’ perceptions of past mediations (Goldberg 2005; Poitras 2005, 2009; Goldberg and Shaw 2007)—approaches that provide only a partial analysis of the mediation process (Goldberg 2005; Poitras 2009; Riera, Cuartero, and Montaña 2020; Munduate, Medina, and Euwema 2022).

Thus, our understanding of the interactions among and between parties and mediators is limited.

While mediation research has produced comprehensive models of mediation effectiveness (Herrman, Hollet, and Gale 2006; Bollen, Euwema, and Munduate 2016; Coleman, Kugler, and Mazzaro 2016; Munduate et al. 2022), further study of the interactive dynamics that take place in the mediation process is needed to advance our understanding of how mediation works (Wall and Dunne 2012; Munduate et al. 2022). Moreover, unlike other professional fields that rely on integrating concepts such as the “working alliance” (Bordin 1979; Horvath 2018), there is no concept in the field of mediation that integrates existing knowledge about the factors that promote effectiveness in the change process.

The concept of the working alliance has been applied to the study of change in many fields—mainly those related to health care, including psychotherapy, medicine, nursing, physical therapy, and neurological rehabilitation (Horvath 2018). More recently, there is growing interest in applying the concept of the working alliance to the fields of education (Estrada 2016) and social work (Horvath 2018), as well as executive and workplace coaching (Baron, Morin, and Morin 2011; De Haan et al. 2016; Graßmann, Schölmerich, and Schermuly 2020; Kruger and Terblanche 2022). In addition, the concept has been applied to research on the professional–client relationship for attorneys (Tatman and Love 2010; McNamara 2012; McDonald, Morgan, and Metze 2016), probation officers (Sturm et al. 2021, 2022), and other professionals within the criminal justice system.

Although the working alliance concept has not been widely adopted in mediation, several authors recently have applied it to research in the field (Kjøs and Oddlie 2018; Riera 2018; Riera and Casado 2019; Riera, Cuartero, and Campos 2020). In the context of mediation, we propose to call such an alliance the “mediating alliance.”¹ To our knowledge, there have been no studies conceptualizing the role of alliance in mediation and no research been conducted to analyze how this concept is constructed through the communicative interaction between a mediator and parties in conflict.

Given the demonstrated importance of the working alliance in achieving successful outcomes in the helping professions, we propose that the mediating alliance likely plays a similar role in the effectiveness of the mediation process. To understand the dynamics that promote the construction of this alliance, it is necessary to conduct systematic observational studies of the communicative flow (Del Giacco, Salcuni, and Anguera 2019) between participants in mediation sessions. *Mixed methods* research integrating quantitative and qualitative elements and analysis—in

particular, systematic observation—is the appropriate method for conducting empirical investigation of the mediating alliance (Anguera et al. 2021; Anguera 2022). Observational studies of alliance in communicative interactions between and among the mediator and the parties in conflict would allow for the development of hypotheses about the effectiveness of communication strategies in mediation.

In this article, we first review the conceptual framework of the working alliance as described by Bordin (1979) and the relevance of this framework to mediation. Next, we propose the novel concept of the “mediating alliance” (MA) as a factor underlying the effectiveness of the mediation process, based on previous studies that have investigated the success factors in the mediation process and that can be related to the role of goals, tasks, and bonds in mediation. The introduction of this integrative concept to the study of mediation could help to identify and better characterize the factors that determine effectiveness in the mediation process.

In addition, we propose the operationalization of the MA through speech acts. This would allow researchers to perform observational studies to examine and deepen the communicative modes that help to generate this alliance among mediation participants. As noted above, access to recordings of mediation studies is difficult to obtain. However, once obtained, studies based on such recordings and using a mixed methods approach are now enhanced by the availability of open-source visualization, recording, and codification software (Bakeman and Quera 2011; Gabin et al. 2012; Hernández-Mendo et al. 2012; Soto-Fernández et al. 2022).

The Working Alliance

The concept of the “working alliance” originated in the psychoanalytic literature. The key contributions to the development of this concept have occurred in the field of psychotherapy, in which such alliance is called the “therapeutic alliance” (Bordin 1979; Horvath 2018). In order to explore the relevance of the working alliance to mediation, it is first necessary to review the conceptual bases of the term set out by Bordin in his classic article, “The Generalizability of the Psychoanalytic Concept of the Working Alliance” (1979), in which he highlighted the concept’s expansiveness and invited research into its application to other fields whose goal is the promotion of change. Bordin described some spaces of interaction in which the working alliance can be observed and in which achieving such an alliance minimizes conflict. These spaces include relationships between students and teachers in the learning process, between community action groups and group leaders, and between prison staff and inmates.

Bordin sought to define and develop a concept of working alliance that could serve many professional fields and integrate their various theoretical and technical approaches, thus promoting a convergence

of research (Bordin 1979). Bordin's conceptualization of the working alliance defined the common elements of the change process while recognizing that there are specific aspects of the alliance within different fields, such as different approaches to practice. However, while acknowledging that the success of each intervention depends on both common and specific elements (Bordin 1986), Bordin argued that the key factor to the success of all of them is the establishment of a working alliance between professionals and clients (Bordin 1979, 1986).

Elements of the Working Alliance

Bordin (1979) conceptualized the working alliance as a factor of effectiveness in the processes of change where "an alliance is established between the person who seeks a change and the one who offers to be an agent of change" (252). According to Bordin, this alliance is characterized by the inclusion of three elements: "agreement on goals, an assignment of task or a series of tasks, and the development of bonds" (253).

Following this general conceptualization, Bordin proposed a conceptual framework for the working alliance in the field of psychotherapy. He highlighted the alliance as a factor in the intervention's effectiveness, with the degree of effectiveness depending on the strength of the alliance. Bordin stressed that the working alliance is a common element in psychotherapy's diverse theoretical approaches and techniques. He presented his conceptual framework as follows:

1. All genres of psychotherapy have embedded working alliances and can be differentiated most meaningfully in terms of the kind of working alliance each requires.
2. The effectiveness of a therapy is a function in part, if not entirely, of the strength of the working alliance.
3. Different approaches to psychotherapy are marked by the difference in the demands they make on patient and therapist.
4. The strength of the working alliance is a function of the closeness of fit between the demands of the particular kind of working alliance and the personal characteristics of patient and therapist (Bordin 1979: 253).

The theoretical development of the working alliance and its application to psychotherapy (in which, as noted, it is called the "therapeutic alliance") has been studied for decades. The therapeutic alliance is recognized as a key factor in the success of the therapeutic process (Safran and Muran 2005; Huibers and Cuijpers 2015; Horvath 2018). The literature contains several definitions of the working alliance as applied to

the therapeutic field, which are not discussed here since our focus is on applying Bordin's conceptualization of the working alliance to the field of mediation.

The distinction between the *common* factors of an intervention—particularly the working alliance and its constitutive elements—and *specific* factors, such as the techniques of different approaches to practice, the types of cases at issue, and the personal characteristics of the professional and the client—has given rise to a debate about the factors' relative levels of influence in the change process. Over time, researchers have come to agree that common and specific factors interact and thus all play a role in determining the final effect of the intervention, albeit to different degrees (Bordin 1979, 1986; Huibers and Cuijpers 2015; Horvath 2018). However, the relevance of the working alliance to the effectiveness of the intervention goes beyond the debate on techniques versus relationships. In this regard, advances in the theory of the working alliance require new lines of research based on multiple cases and their trajectories of change (Huibers and Cuijpers 2015).

Relevance of the Working Alliance to Mediation

Bordin's conceptualization of the working alliance may be applied to mediation. Kjøs and Oddlie (2018) investigated the formation of the working alliance in the context of family mediation, mainly in highly contentious custody cases in which mediation was court ordered. Findings suggested that mediators can facilitate collaborative alliances between parents, and between parents and mediator, by using strategies such as managing the conversation's focus, validating both parties' perspectives, and adapting the interventions and proposed tasks to suit the parental dyad's level of cohesion. Findings also supported the importance of establishing alliance early in the mediation process.

In three successive studies of family mediation, Riera (2018); Riera and Casado (2019); and Riera, Cuartero, and Campos (2020) researched trust-building in mediation. This line of research approached family mediation from a social work perspective and imported therapeutic alliance theory to explain the emergence of trust within the professional-client relationship. The studies examined the association between trust-building in mediation and the establishment of an alliance between mediators and parties in dispute.

Riera (2018) compared trust-building in mediation as measured by four different questionnaire forms, including a form for evaluating the strength of the therapeutic alliance in the context of family and couples therapy, SOATIF-o. No significant relation was found between trust in mediation and the dimensions measured in SOATIF-o.

Riera and Casado (2019) conducted a review aimed at identifying the characteristics of trust among mediators and parties in dispute and discussed the findings in relation to attributes of the “helping alliance,” borrowing a term from Luborsky’s research in psychotherapy (1976). Like Kjøs and Oddlie (2018), Riera and Casado illustrated the importance of establishing a helping alliance early in the mediation process, and noted the need for empirical research to evaluate the dimensions and behaviors included in the SOATIF-o (Client) form—a client version of the form used in the 2018 study—in the emergence of trust in mediation.

Riera, Cuartero, and Campos (2020) tested ten factors that potentially contribute to trust-building between mediators and parties in dispute. One of the ten factors evaluated was “skills of the mediator to build a therapeutic alliance,” which was found not relevant for trust-building in mediation. The underlying premises shared by the three studies were that trust lies within the establishment of a therapeutic alliance among mediators and parties in conflict and is a key component in successful “helping relationships,” as manifested in the first study (Riera 2018).

Kjøs and Oddlie (2018); Riera (2018); Riera and Casado (2019); and Riera, Cuartero, and Campos (2020) started a new line of research that aimed to apply the concept of the working alliance to mediation. While the common elements of goals, tasks, and bonds developed through the interaction between a third party and clients can be identified in the mediation process, the authors imported into the field of mediation some premises, terminology, and evaluation tools from the theory of therapy. Mediation, as a distinct process and institution, has its own goals, practices, and values, and importing into it theoretical frameworks from other disciplines, such as therapy, may distort the mediation process (Della Noce, Bush, and Folger 2002). However, drawing from the working alliance concept as broadly proposed by Bordin (1979) provides the conceptual grounding for developing the potential value of the working alliance to mediation theory. Thus, we propose the conceptualization of the “mediating alliance,” understanding mediation as a distinct professional field.

The Mediating Alliance

In this section, we conceptualize the mediating alliance. As noted above, our starting point is Bordin’s concept of the “working alliance” (1979). We propose the mediating alliance concept based on the extensive literature on factors that determine successful mediation. Our aim is not to describe all the factors potentially relevant to alliance in mediation, but to provide a broad overview of the mediating alliance (MA) concept and

its use in integrating this current body of knowledge. We seek to show the concept's utility in providing a novel integrating conceptualization of these factors.

Mediation is understood here as a process in which a third party—the mediator—facilitates an interaction between parties to enable them to reach a negotiated solution to a dispute (judicial or nonjudicial) according to the rules of the jurisdiction in which the mediation takes place (Raines and Choi 2016).

We define the MA as “the cooperative relationship between the mediator and the parties in mediation.” Like the working alliance, the MA has three components, which are related to process as well as relationship: agreement on goals, the assignment and performance of tasks, and the development of bonds.

Approaches to mediation vary widely depending on many factors, such as the type of conflict (family, workplace, commercial, community, etc.) and the chosen theoretical-practical mediation model (facilitative, directive, problem-solving, evaluative, transformative, narrative, etc.). The mediator's approach influences their communicative behavior, which affects how the parties experience the mediation and their level of satisfaction with the process, as well as the effectiveness of the intervention (Serrano et al. 2006; Kressel et al. 2012; Druckman and Harinck 2022).

These different approaches to mediation lead to differences in the MA, as factors such as conflict type and mediation model interact with and modulate the alliance. Moreover, as Bordin (1979) noted, the strength of the alliance plays a key role in explaining how the conflict is changed, in this case through mediation. That is, the common elements of process and relationship explain more than the specific elements of the approach or type of alliance. Other psychosocial and normative factors also play a role in the evolution of the conflict, and these factors can inhibit or promote conflict resolution (Bordin 1979; Kelman 2009).

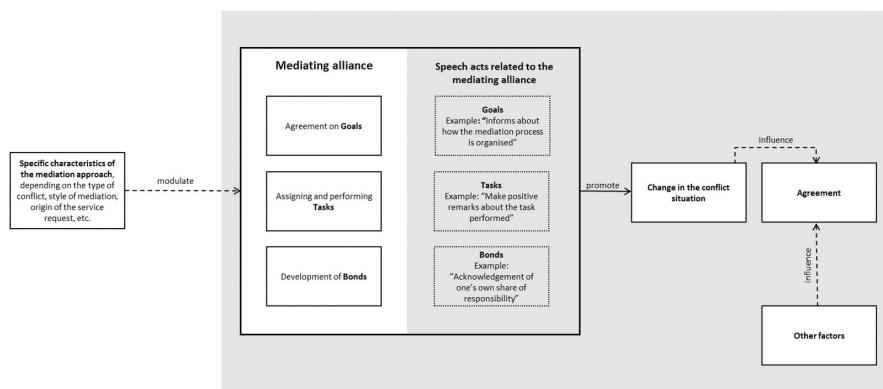
Figure One shows the basic elements of the conceptual framework of the MA as a factor influencing the effectiveness of the mediation process:

Agreement on Goals

Alliances are relationships that are formed consciously and with a purpose. In mediation, the purposes—regardless of the specific conflict—are negotiating a solution to the dispute, preventing future reproduction of the conflict, and improving or repairing relations between the parties or with third parties affected by the conflict (Bush and Pope 2002; Bush and Folger 2005; Goldberg 2005; Wall and Dunne 2012; Raines, Pokhrel, and

Figure One Conceptualization of the Mediating Alliance (Pujol 2022)

Conceptual framework of the Mediating Alliance as a factor of effectiveness in the mediation process



Poitras 2013; Boyle 2020). The mediator seeks to understand the conflict by listening carefully to the information presented by the parties, including their objectives and motivations and a description of the conflict and its causes, circumstances, and evolution. The mediator may also review documentation provided by the parties, their agents, and/or a court in the case of court-ordered mediation. The mediator and the parties then agree on the mediation's objectives, which may be readjusted as the process progresses (Druckman and Donohue 2022).

The desire of both parties to reach a solution is crucial to establishing a climate that is cooperative rather than hostile (Poitras 2005). In the absence of such desire, the parties' willingness to cooperate in identifying and achieving goals can be influenced by pressure arising from their circumstances or generated by outside parties (Bordin 1979; Horvath 2001; Kelman 2009). The cooperation between the parties that facilitates agreement on the mediation's goals is important in the context of the MA (Tjosvold and van de Vliert 1994; Alvarado, Armadans, and Parada 2020; Boyle 2020; Tjosvold et al. 2022).

Transparency in the mediation process, particularly as to the information offered by the mediator at the beginning of the mediation, is essential to generating trust and a sense of justice (Poitras and Renaud 1997, cited in Poitras 2009). Helping the parties to understand and follow the mediation procedures facilitates their involvement in the process and their understanding that while the mediator guides the process (Poitras 2009), it is the parties that must identify and agree on the goals, as it is the parties who must work together to achieve them (Poitras 2007; Boyle 2020).

As noted above, agreement on the mediation's goals is critical. Indeed, the construction of the MA starts with the parties' agreement on goals at the beginning of the mediation process. The nature of these agreements and other early interactions affects the ongoing development of the relationship, contributing to the emergence (or absence) of bonds between the participants and of trust in the mediator, which is based on the mediator's credibility as an expert capable of driving and organizing the tasks needed to achieve the goals (Druckman and Donohue 2022).

Agreement on Tasks

The organizational and technical aspects of how the mediator manages mediation influence both the development of the process and its results (Della Noce 1999; Raines et al. 2013). In this regard, the literature on alliance underscores several aspects that are thought to play an important role in fostering a cooperative relationship. These include the nature of the professional contract, the parties' and mediator's positions in the physical space in which the mediation takes place, the relevance of the tasks to the mediation's goals, and the level of attention given to the process of reaching agreement (Bordin 1979).

Despite the importance to the alliance of the mediator's contract and payment (Bordin 1979), these issues have received scant attention in the mediation literature. However, some attention has been paid by Raines et al. (2013), who have discussed the need to formalize the mediation through a contract specifying the key elements of the exchange, including payment. They emphasized the importance of clarity regarding payment issues, including the price of the service, possible additional expenses, and the form of payment. They also stated that the terms should be put in writing in a formal contract.

One technical specification of the mediation process is the physical location of the mediator in relation to the parties. The mediator's position can be altered to meet specific purposes, for example, to promote the perception of impartiality (Poitras 2009) or inhibit confrontation between the parties (Poitras 2005).

Bush and Folger (2015) and Boyle (2020) have discussed how the assignment and performance of tasks affect the effectiveness of mediation. They noted that a task-based approach to resolving conflicts depends on the parties' capacity to act and decide for themselves. The mediation process requires the parties' active participation in performing tasks, which is facilitated by the mediator. Tasks proposed and the support of the mediator guide the parties toward the achievement of their defined goals and help them to be aware of their own capacities for problem-solving and decision-making, to better understand the

other party, and to improve the quality of interactions during and after the mediation process (Bush and Folger 2015). One critical task is clarification of the parties' goals and motives, which reduces uncertainty (Olekalns et al. 2005).

From the perspective of alliance, the efficacy of task (in terms of advancing the mediation's goals) lies in the participants' experiences in performing the task and how they perceive its relevance to the conflict the parties seek to resolve (Bordin 1979). In this regard, the mediation literature generally focuses on the importance of positivizing the results of the tasks to motivate both parties to support the collaborative effort (Poitras 2005).

The need for consensus is a prominent issue in the conceptual framework of the alliance and draws attention to the process of reaching agreement (Bordin 1979). Poitras and Bowen (2002) identified three functions of the initial phase of mediation: (1) definition of the problem, (2) the parties' decision and commitment to participate in the process, and (3) the structuring or shaping of the process through tasks that motivate parties to take action toward reaching agreement. It is important to stress that communication about tasks promotes cooperation in complex situations—such as mediation—since it affects aspects of interpersonal interaction such as trust and a sense of justice (Cohen, Wildschut, and Insko 2010).

Development of Bonds

Bordin (1979) noted that trust and taking responsibility for one's actions are two fundamental bonds that develop within the working alliance. These factors have been extensively studied in the field of mediation.

Poitras (2009) identified several factors that are key in developing the bond of trust between parties and mediators:

1. the mediator's mastery of the mediation process, which is based on the mediator's competence, experience, and professionalism and is manifested by demonstrating familiarity with the details of the case;
2. the mediator's effective explanation of how the mediation process unfolds, which inspires confidence and helps parties to navigate a process with which they may not be familiar;
3. the mediator's respectful, kind, and considerate treatment of the parties to ensure they feel as comfortable as possible;
4. the chemistry between the mediator and the parties, i.e., the mediator's ability to inspire the parties' trust through a look, a tone of voice, or a handshake; and

5. the mediator's impartiality, since the parties may easily lose trust in the mediator if they believe that the mediator is giving more attention to a party, acts more favorably toward a party, or otherwise shows bias toward a party (Poitras 2013).

Poitras pointed out that these trust-generating factors help to ensure that the mediation process leads to conflict resolution. Trust makes it easier for the mediator to access confidential information, which allows the mediator to identify points of potential agreement and alternatives. Where there is trust in the mediator, the parties share confidential information because they believe the mediator will use it effectively (mastery of the process) and without passing judgment (kindness and consideration), and will refrain from using the information against the disclosing party (impartiality and good faith) (Poitras 2013). Trust in the mediator enables the parties to deal better with the complexity of the conflict (Luhmann 2005).

Along the same line, Goldberg and Shaw (2007) highlighted the importance of developing rapport—which they defined as an empathetic and trusting relationship—to generate a bond of commitment between the mediating parties. Rapport can be manifested through empathetic listening, genuine attention, and legitimation of the concerns and needs of each party, and may be indicated by expressions such as “I understand” or “I see that you are concerned” (Goldberg 2005; Goldberg and Shaw 2007). Before a lengthy caucus session, the mediator can show attention to the non-caucusing party by informally talking with them, which contributes to the development of rapport (Goldberg 2005).

The other fundamental bond that develops within the working alliance is taking responsibility for one's role in the conflict. In the mediation process, taking responsibility is evidenced through the parties' empowerment and their acknowledgment of responsibility. Several authors have shown that both these factors change the quality of the parties' relationship, thus allowing for constructive interaction (Folger and Bush 1994, 2001, 2005; Della Noce 1999; Bush and Pope 2002; Della Noce, Antes, and Saul 2004; Bush and Folger 2005, 2015; Gaynier 2005; Poitras 2007; Jameson et al. 2014; Boyle 2020).

When parties are empowered, they feel capable of taking an active role in the mediation process and in decision-making. Poitras (2005) found that the committed participation of the parties is manifested in attitudes and actions that show openness, express courtesy and good faith toward the other party, and show a desire to reach resolution and reconciliation; and in creating and contributing to a climate of constructive communication. Boyle (2020) related empowerment to the parties' capacity to act and decide for themselves, and noted that “although the parties will have

entered the mediation individually, the concept of self-determination assumes that they will work together cooperatively, at least in the development of any resolution to their dispute, and that they will work as an entity united for this purpose” (18). In this context, the role of the mediator is to help the parties move from participation as individuals to participation as a joint cooperative entity that can work toward a joint solution to the conflict, one that is determined by the parties (with the mediator’s help). Boyle (2020) proposed that by promoting empathy, rapport, and trust between themselves and the parties—and between the parties themselves—mediators support this transition to a “cooperative, self-determining joint entity” (18).

Poitras (2007, 2010) has extensively studied the parties’ acknowledgment of responsibility for their role in a conflict. According to Poitras, acceptance of responsibility is a crucial step that each party must take to foster collaboration. If only one party is willing to admit their mistakes, polarization can develop, confrontation can escalate, and cooperation can be inhibited. Negative reciprocity among parties is likely to escalate the conflict while positive reciprocity leads to positive mediation cycles (Friedman et al. 2004).

Friedman et al. (2004) studied the initial exchange of written information (prior to a mediator’s intervention) by parties taking part in commercial online dispute resolution. Their study showed that the parties’ reciprocal manifestation of a willingness to settle a conflict helped to resolve it. They noted that “an explicit suggestion for how the dispute could be resolved or agreement with the other person’s suggestion for resolving the dispute” (372) enhanced resolution. This finding suggests that mediators may want to give parties the opportunity to express—directly or indirectly—their reciprocal willingness to achieve a resolution.

The discussion of the mediating alliance above—based on the literature on success factors related to the goals, tasks, and bonding in the mediation process—shows that the MA is a framework integrating interaction dynamics that foster cooperation between the parties to a conflict (who seek change) and the mediator (who facilitates change). The MA can be observed through the parties’ communicative interaction. Future observational studies investigating this alliance will allow us to identify and understand the behaviors that lead to the desired outcome (change) in a conflict mediation. This is why it is important to operationalize the MA by detecting specific observable communicative behaviors.

Operationalizing the Mediating Alliance Through Speech Acts

This article aims to conceptualize the MA as a factor of effectiveness in the mediation process. From the perspective of mediation as a process

of communicative interaction, it is important to understand how the MA builds up throughout the communicative flow that takes place in mediation sessions. Consequently, the proposed theoretical framework includes the operationalization of the MA based on communicative behaviors and/or speech acts. In turn, this facilitates the MA's application in future lines of research based on systematic observational studies of verbal and nonverbal communicative interactions between the mediator and the parties—as well as between the parties themselves—using a mixed methods approach. Previous studies that have evaluated the dynamics of the mediation process by observing the natural communicative flow or conversation have made relevant theoretical and applied contributions toward improving training for mediators and thus the practice of mediation (Olekals, Brett, and Donohue 2010). The value of such an approach is that it can help to identify the specific communication strategies that take place during the mediation process that promote the dynamics leading to alliance.

Based on the theory of speech acts (Austin 1962; Searle 1994), the communicative acts between the mediator and the parties can be seen as actions that build the MA. Tables One–Three below summarize the three elements of the MA, with examples of specific communication acts.

Observation of the Mediating Alliance

The operationalization of the MA through communicative behaviors or speech acts allows for systematic observation of the interaction dynamics of the MA. From a mixed methods approach to systematic observation of recordings of mediation sessions (video recordings for direct observation and audio recordings for indirect observation [Anguera, Portell et al. 2018]), qualitative and quantitative elements can be integrated by transforming the observed communicative behavior into matrices of codes that can be subject to quantitative analysis. This methodological approach captures the information generated in a mediation process, allowing for an analysis of the multimodal communication exchanges between mediators and parties, and for the detection of patterns present in the communicative flow throughout the mediation process (Anguera, Blanco-Villaseñor, Losada, and Portell 2018; Anguera, Blanco-Villaseñor, Losada, Sánchez-Algarra, et al. 2018; Anguera, Portell, et al. 2018; Anguera 2020, 2021). Systematic observation procedures are facilitated by available open-source visualization, recording, and codification software, such as GSEQ (<https://www.mangold-international.com/en/products/software/gseq.html>) (Bakeman and Quera 2011), HOISAN (www.menpas.com) (Hernández-Mendo et al. 2012), LINCE (<http://lom.observesport.com>)

Table One
Examples of Agreement on Goals through Communication Acts

Aspect	Example	Source
Understanding the conflict	(Mediator) Listens to and validates the information presented	Wall and Dunne (2012)
Desire to reach a solution	(Party) Expresses a desire to reach a solution. (Use of 1st person + active verbal mode)	Poitras (2005)
Agreement on goals	(Party) Agrees on goals	Poitras (2007)
Transparency about the process	(Mediator) Explains how the process of mediation works	Poitras and Renaud (1997), cited in Poitras (2009)
Engagement of parties in the mediation process	(Party) Expresses willingness to participate in the mediation process	Poitras (2009)
Understanding the role of the mediator as guide in the process	(Mediator) Provides information about how the mediation process is organized	Poitras (2009)

(Gabin et al. 2012), and LINCE PLUS (<http://lom.observesport.com>), which will soon be available in an App version (Soto-Fernández et al. 2022).

This line of research—which has been pursued in the study of the therapeutic alliance—would advance the study of the MA. Del Giacco et al. (2019) developed an observational instrument designed to integrate information about the co-occurrence of communication acts, both verbal and nonverbal. The instrument was designed to study changes in psychotherapy, particularly to detect the co-construction of meanings between the therapist and the patient in the process of interaction and construction of the therapeutic alliance (Del Giacco et al. 2019; Del Giacco, Anguera, and Salcuni 2020). In the section on methodological implications below, we discuss the relevance of

Table Two
Examples of Agreement on Tasks through Communication Acts

Aspect	Example	Source
Provide contract stating terms of service, including professional fees	(Mediator) Informs parties about the cost of sessions	Raines et al. (2013)
Show the parties the place where the mediation will occur	(Mediator) Invites the parties to take a seat, indicating to each one the place they should take	Poitras (2009)
Facilitate a constructive information exchange	(Mediator) Asks one party what he/she thinks about what the other party expresses	Poitras (2005)
Explain the relevance of the task	(Mediator) Highlights the positive results generated from task performance	Poitras (2005)
Give attention to the process of reaching agreement	(Mediator) Directs the focus of the conversation to the negotiation agenda	Poitras and Bowen (2002)

systematically observing the MA as communicative interaction in the mediation process.

Proposal for the Mediating Alliance Framework

The main contribution of the present article is the proposed theoretical framework of the mediating alliance as a factor of effectiveness in the mediation process. This framework includes both the conceptualization of the MA and its operationalization through the observation of communicative acts, which facilitates the study of the mediation process. The implications are described below.

The Mediating Alliance as a Theoretical Proposal

The MA applies Bordin's (1979) conceptualization of the working alliance—an alliance for joint work aimed at achieving change—to the field of mediation. Bordin argued that the working alliance concept is

Table Three
Examples of Development of Bonds through Communication Acts

Aspect	Example	Source
Trust	(Mediator) Explains how the process of mediation works	Poitras (2009)
	(Mediator) Demonstrates experience	Poitras (2009)
	(Mediator/Party) Shows respect, kindness, and consideration	Poitras (2009)
	(Mediator) Shows impartiality/ Does not show bias	Poitras (2009)
Rapport	(Mediator) Listens empathically and gives attention	Goldberg (2005)
Empowerment	(Party) Demonstrates openness	Poitras (2005)
	(Party) Maintains constructive communication	Poitras (2005)
Accepting responsibility	(Party) Expresses acceptance of responsibility for its role in the conflict	Poitras (2007)
	(Party) Demonstrates he/she understands the conflict and is willing to engage in trying to find a solution	Poitras (2005)

valuable in several different ways: it can be generalized to a wide range of intervention contexts where the aim is to achieve change; it is a key factor in the process of change; it integrates knowledge gained from previous research; and it points to new research questions.

The proposed conceptual framework of the MA integrates previous theory on the factors of mediation efficacy, which has been developed in an extensive body of literature. Cooperation is a central theme in the conceptualization of the MA. We propose to define the MA as “a cooperative relationship between the mediator and the parties in mediation.” In the present article, the mediating alliance has been represented visually (see Figure One) as a framework or space that promotes cooperative interaction between the mediator and the parties in conflict—and between the parties themselves—to facilitate agreement on goals, agreement on tasks to be performed, and the development of bonds. The framework

outlines a cooperative context that allows the parties to develop a joint, positive perception of how their goals are related (that is, of their interdependence), which has been shown to facilitate the process of reaching agreement (Tjosvold and van de Vliert 1994; Alvarado et al. 2020; Tjosvold et al. 2022). Poitras (2005) underscored the importance of understanding the factors that influence the desire to cooperate, since these factors will affect the probability of reaching an agreement in mediation (Zubek et al. 1992). In this regard, Poitras introduced the concept of a “cooperative climate,” which integrates the factors that promote cooperation between parties in mediation. The cooperative climate in mediation is characterized by the parties’ willingness to accept their individual responsibility for the conflict (Poitras 2005, 2007). This recognition of responsibility promotes the establishment of a cooperative interaction, which, in turn, strengthens both parties’ desire to reconcile. Similarly, the MA requires that the parties take responsibility by exercising their agency and their capacity to work together toward a solution, the form of which they determine for themselves with the mediator’s assistance. The mediator facilitates a transition in both parties from their individual positions toward “a cooperative, self-determining joint entity” (Boyle 2020: 18). This transition is achieved by promoting empathy, rapport, and trust between the mediator and the parties and between the parties themselves. The proposed concept of the MA emphasizes the construction of group interaction.

We assume that the strength of the alliance will play a key role in explaining the change in the conflict achieved through mediation; in other words, the common elements of process (goals and tasks) and relationship (development of bonds) explain more than the specific elements of the approach or type of alliance. However, future research is needed to confirm this assumption.

The theoretical framework of the MA includes the existence of other factors, internal or external to the parties, which interact with the conflict and may even prevent its resolution (Bordin 1979; Kelman 2009). Kelman theorized about the influence of psychological and social processes on decision-making in conflict situations. For example, even though a party has expressed agreement that the goal is to resolve the conflict, the defined goal may, paradoxically, conflict with a question of identity, which influences the party’s desire to keep the conflict going (Druckman and Donohue 2022).

This article adds to the literature on mediation by proposing the MA concept, thus demonstrating the generalizable character of the working alliance developed by Bordin (1979) and applying it to the field of mediation. Rather than build on the field of psychotherapy (from which the concept of the working alliance originates), developing our understanding of alliance in the context of mediation provides

a new integrating concept based on research about success factors related to the goals, tasks, and bonds in the mediation process. The development of the concept of the MA presented here, far from trying to capture all factors potentially relevant to alliance in mediation, seeks to show the broad spectrum of the proposed concept and its capacity to fit into existing theories and debate, as well as with future developments.

The Mediating Alliance as a Methodological Proposal

Several authors have emphasized the need to further study and evaluate the interaction dynamics between the mediator and the parties (Wall and Dunne 2012; Munduate et al. 2022). The conceptual framework of the MA is applicable to empirical situations. By including communicative behaviors or speech acts, the framework of the MA can be used to guide future studies in which researchers can systematically observe and seek to identify the communicative modes that promote the factors that generate the MA.

The development of the mixed methods approach has played an important role in advancing communication research in mediation (Paul et al. 2016; Anguera, Portell, et al. 2018; Anguera 2021). The systematic observation of communicative interaction from a mixed methods approach, codifying communicative behavior for its quantitative processing, offers researchers a way to analyze such behavior, detect behavioral patterns, and understand what is happening, moment by moment, in mediation sessions (Anguera, Portell, et al. 2018). Several researchers have analyzed the interactions between parties in conflict through the moment-to-moment conversational flow, including Della Noce (1999), Bush and Folger (2005), and Paletz, Schunn, and Kim (2011). Those studies support the value of examining communication at the micro-conflict level (i.e., observable brief behaviors) (Paletz et al. 2011). The theory of speech acts (Austin 1962; Searle 1994) is applicable to the analysis of communication between the mediator and the parties to a conflict, thus permitting a micro-level analysis of such communication (Paul et al. 2016; Pardines 2018; Barrera 2019; Anguera 2021) and, therefore, of the construction of the MA.

Limitations and Future Research

The conceptualization and operationalization of the MA presented in this article opens up many lines of empirical research for advancing this concept further. In particular, the conceptualization presented here provides the basis for designing and validating an instrument to study the MA. Researchers could use the instrument to collect empirical data that would increase our understanding of the MA and its role in mediation.

Bordin suggested that the concept of alliance should be investigated in any context in which the goal of the client–professional relationship is to achieve the change that clients seek. More research on the role of the MA across all types of conflict mediation is welcome in order to advance the applicability of Bordin’s theory to contexts other than family mediation.

Conclusions

The literature on success factors related to goals, tasks, and bonds developed in mediation suggests that applying Bordin’s concept of working alliance to mediation will advance our understanding of the actual mediation process as a change process. In this article, we have proposed the conceptualization of a new term—the *mediating alliance*—which may contribute to the advancement of existing theories about effectiveness in mediation. This new term is necessary because other terms such as “helping alliance” and “therapeutic alliance” do not reflect the type of working alliance that is formed in mediation.

The introduction of this concept also will advance existing theories about the role of cooperation in mediation, as the MA captures the meaning of the cooperative context in which the parties can develop a joint, positive perception of the relationship between their goals and the mediation process in which they are engaged. The concept of the MA has been operationalized by applying the theory of speech acts, which will allow for observation of the MA in future studies using a mixed methods approach.

On a practical level, future research that applies the concept of the mediating alliance to mediation analysis is likely to provide valuable data that can be used to develop strategies for effective communication in the mediation process and to improve the training of mediators.

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NOTE

1. The term “mediating alliance” was coined by M. Teresa Anguera.

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