

# Harmony in the Neighbourhood: The Power of Community Mediation

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Although there is scant evidence to support this claim, mediation has long been used as an alternative conflict settlement process in India's legal system. As a peaceful and constructive method of resolution, it is favoured since it mends the relationship between the parties and concentrates on strengthening their interpersonal equations.

The old-fashioned mediation procedure has evolved significantly throughout time, becoming a more effective means of preserving harmony and fostering trade amongst traders, merchants, businesspeople, and even states.

Around the world, mediation is acknowledged as a productive and non-adversarial dispute resolution process. In an effort to lessen the backlog of cases in the courts, India has long promoted mediation. The [Mediation Act, 2023 \("Act"\)](#) was passed on September 15, 2023. The Act seeks to encourage mediation by offering a means for mediation in several contexts (civil law, business law, family law, etc.), at the individual and community levels, and through both offline and online channels. Although several elements of the Act have not yet taken effect, on October 9, 2023, the Ministry of Law and Justice announced 21 of the 65 sections pertaining to title, definitions, MCI creation, rule-making authority, and transitory provisions of the Act.

Mediation, as presently understood, is divided into:

1. Court-assisted mediation (where Courts refer matters to mediation in consonance with provisions S.89 of CPC); and
2. Private mediation (where parties themselves refer their dispute to a private mediator for settlement).

## Community Mediation

Conflicts and disagreements between people, communities, and organizations can be constructively resolved through community mediation. In place of avoidance, harmful confrontation, protracted litigation, or violence, participants take control of the process and design their own substitutes. Participant discussion of wants and concerns is made possible through community mediation. In addition, it develops procedures that make communities functional for all members and fortifies bonds between individuals and groups. Community mediators offer a secure space for participants to address their needs without compromising their ability to make decisions. They support participants throughout challenging conversations. To assist participants in addressing the particular conflict needs of both themselves and their community, community mediation centers provide a range of conflict intervention techniques, contingent upon participant requirements and center capability.

A positive method of resolving conflicts between people, families, and various community organizations is community mediation. Apart from being a quick, voluntary, and party-centered negotiation process, its objectives are to fortify interpersonal bonds, foster connections, and inspire

communities to collaborate for the common good.[9] By taking part in the conversation, the harmed party can address the offending party in a productive way, which encourages them to resolve their differences without the assistance of the legal system or the police apparatus.

## Disputes Suited for Community Mediation

As was previously mentioned, community mediation is a popular method of dispute resolution used by residents of small towns and villages. However, because there are few examples of this practice in the current legal system, it has not been able to fully connect with the populace in cities and corporate settings. By its very nature, community mediation is a quick, interactive, and cost-effective way to resolve conflicts, which makes it ideal for —

1. Those who feel that if they wait to seek assistance, it will become useless or who desire immediate alleviation; or
2. Individuals or groups who wish to pursue remedies outside of the bounds of the law. For instance, the punishment provided by the law for breaking into B's home and stealing is either a fine or imprisonment, neither of which is advantageous to A. As such, A may choose to pursue community mediation to obtain damages for the harm that B's actions have caused him; or
3. Among those who do not have a lot of money and cannot pay for significant legal fees.

## Community Mediation: A Road Ahead

Although the idea of community mediation has a lot of room to expand, realizing its full potential will be a difficult and drawn-out process. This method's failure to catch on in metropolitan settings can be attributed, in part, to the fact that most people are either unaware of it or have misconceptions about it. In this case, registering the community mediation program with the nation's judicial system is the best course of action for resolving both problems. Benefits from this approach are several. First, having ties to the local courts guarantees a consistent stream of cases to the program, demonstrating the judiciary's support for it.

Secondly, mediations with a court annex are more likely to be regarded seriously as the court's support establishes and so validates their legitimacy. Finally, because significant costs like as staffing and infrastructure are already covered, these programs run on a minimal operating budget. Nevertheless, there are drawbacks to court-annexed mediation programs. It is simple to think of them as required or integrated into the judicial system. This jeopardizes the mediation process's core component of voluntariness and could put pressure on parties to engage in mediation. To prevent this, genuine attempts should be made to maintain the independence of community mediation programs and to explain its process to the parties from the beginning.

Dispelling certain myths about community mediation and informing people of its real facts is another way to make it more widely accepted. Since they are the first to be contacted by parties involved in a lawsuit, advocates are crucial in this. In addition, community mediation will benefit from legal recognition and awareness-raising campaigns. By incorporating community mediation in the proposed Mediation Bill, 2021, the Legislature has already made progress. The chapter therein lays out the conditions under which community mediation may be used as well as the steps that must be taken. This might raise awareness of community mediation together with some aggressive, focused marketing techniques.

## **A Closer Look at Community Mediation Centers and the National Association for Community Mediation (NAFCM)**

The purpose of any community mediation center is to provide services to the local community. With its community partners and mediators, each center keeps up relationships.

Professionals with mediation training, volunteers with mediation training, and staff mediators are frequently found in community centers. A paid professional staff core frequently works with a cadre of volunteers that the center organizes. Personnel working at centers include trainers, facilitators, case managers, coordinators of programs, and practitioners of restorative justice.

A wide range of organizations frequently collaborate with community mediation programs because of the flexibility of community mediation. Governmental bodies, law enforcement agencies, educational institutions, courts, housing associations, and houses of worship are a few examples of the groups that collaborate with community mediation initiatives.

As the focal point for expanding its efforts, compiling community mediation knowledge, and elevating the voice of community mediators, NAFCM promotes community mediation. NAFCM's goals are to develop and share resources for these initiatives, as well as to promote the upkeep and expansion of community-based mediation programs and procedures. It also aims to make a strong impression in relevant policy-making, legislative, and professional contexts. According to the needs of the parties involved, the community, and the community mediation center's capabilities, NAFCM member centers offer a variety of services.

### **Conclusion**

Even in the present day, there are still many litigants who are either ignorant about the alternatives to litigation or have doubts about their efficacy and legitimacy. Due to their inability to dispel these misconceptions and ardently support such alternatives, lawyers—who serve as the intermediary between conflicting parties and the judiciary—have discouraged parties from choosing them. But there is still optimism because India has been progressing well over the past few years. Community mediation clinics, which have grown in popularity due to the practical solutions being developed and the high level of justice they offer, were introduced by the Indian Institute of Arbitration & Mediation in 2009 as a less expensive alternative to litigation.

Comparably, the state of Kerala has launched the Community Mediation Volunteer Program to help with the mounting backlog of cases. This approach has proven successful in one city and is now being reproduced in other Keralan cities. These instances demonstrate the potential for growth and the beneficial changes that community mediation may bring about when it is welcomed with open arms.

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