



NATIONAL LEGAL SERVICES AUTHORITY



COMMUNITY MEDIATION TRAINING MANUAL

NALSA COMMUNITY MEDIATION TRAINING MANUAL



Written, compiled and designed for the Indian Community and Legal Fraternity
by
National Legal Services Authority

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MESSAGE

The essence of justice does not always lie in decrees or judgments — it often begins in a conversation. When communities learn to listen before they argue and understand before they decide, they take the first step towards a society governed not only by law but by empathy.

Community Mediation represents a quiet yet powerful shift, from courts of law to circles of understanding. It tries to mould citizens from being recipients of justice to participants in justice. Every dialogue held in good faith, every dispute resolved through conversation, contributes to the constitutional promise of fraternity — a word often read, but seldom realized.

When the smallest dispute finds a peaceful resolution at the village level, it protects the dignity of both parties and the justice system itself. May every trained mediator become a keeper of peace — not in courtrooms, but in the everyday lives of people.

Let us nurture this culture of dialogue and reconciliation, for in doing so, we honour the spirit of our Constitution and build a society where access to justice truly means access to peace.

[B. R. Gavai]

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MESSAGE

“Justice is often seen as a destination — a verdict, a signature, a final word. But what if justice is not the end of a journey, but the way we walk together?”

This Manual reminds us that the law need not always speak from the pulpit of authority; it can also listen softly, hold space for silence, and respond with understanding. Mediation invites us to trade the language of victory for the language of empathy. It shows that silence can sometimes heal more deeply than speech, and that peace written in hearts outlives peace written on paper.

At a time when disputes divide and words wound, community mediation becomes a gentle bridge—one that leads us back to our shared humanity. It transforms neighbours into collaborators, strangers into partners in dialogue, and conflict into an opportunity for collective healing.

True justice is not found in the satisfaction of one, but in the ease of many. It lives not only in agreements signed, but in relationships restored; not merely in resolution, but in reconciliation.

May this Manual guide us towards that quiet, steadfast kind of justice—one that listens before it speaks, heals before it judges, and endures because it is built on understanding.

27.10.2025


[Surya Kant]



राष्ट्रीय विधिक सेवा प्राधिकरण NATIONAL LEGAL SERVICES AUTHORITY

(Constituted under the Legal Services Authorities Act, 1987)

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PREFACE

This Community Mediation Training Manual has been created to serve as a basic, practicable, and inclusive mechanism for people and institutions working toward peaceful conflict resolution at the community level. Disputes are common in everyday life, especially in a diverse country like India, where communities are connected by common spaces, customs, and relationships. We want to confront those disputes with the intent to foster conversation, understanding, and peace.

The concept of community mediation, intended in the Mediation Act 2023 and taken forward by the National Legal Service Authority (NALSA), is more than a process—it's a movement to rebuild trust and interdependence within society. Community mediation allows for disputes to be resolved with dignity, respect, and without hostility or litigation.

This Manual combines theory and practical insights on Community Mediation. It will serve as your guide to becoming a pillar of peace within your community. It is based on a simple but best practice principle that some of the best and longest-lasting solutions to local disputes come from within a community. That is what community mediation is all about: a process by the community, for the community.

NALSA gratefully acknowledges the diligent efforts of senior trainers in Mediation namely Shri Manmohan Sharma, District & Session Judge (Retd.) and Ms Iram Majid, Advocate in meticulously drafting the training module and making it both informative and impactful.

[Bharat Parashar]

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Chapter 1

Introduction

This community mediation manual offers a structured approach to practising community mediation on a grassroots level, equipping and ensuring the equitable, legal and fair resolution of disputes in a safe and voluntary environment.

Mapping of the Chapter

- *Purpose of the Training*
- *Objectives of the Training*
- *Mediation*
 - What is Community Mediation?*
 - *Narrative Mediation*
 - *Transformative Mediation*
 - *Mixture of Narrative and Transformative in Community Mediation*
 - *Why This Matters in Community Mediation*

1.1. Purpose of the Training

When we hear the word “mediation,” we often think of it as a formal process held in an office or courtroom, guided by a trained mediator. In fact, mediation is ingrained in a host of common experiences that many of us can find ourselves in. Differences can occur over land, housing, families, disagreements amongst neighbours or local/shared resources. If we simply brush aside or ignore our differences, or do not address or remedy misunderstandings, those differences may tend to escalate to become matters of grave consequence that can affect relationships or may aggravate bitterness, division, displacement or in some cases even lead to violence.

The objective of this training manual is to assist community members, volunteers or other stakeholders in the community to engage in remedying differences by utilizing mediation skills in a peaceful manner. By learning mediation, the participants can help others to resolve differences to achieve fair and durable agreements, without going to court. Perhaps this can help save money, time, and relationships! It also goes to confirm that mediation is a technique, which can be effectively used to bridge differences and can lead to amicable relations and a peaceful society. In this backdrop, in the ultimate reckoning, it paves way for peace in the community at large and a litigation free society at the village level.

1.2. Objectives of the Training

By the end of the program, participants will broadly:

- Understand the meaning and principles of mediation.
- Understand the process as to how mediation is different from a litigation/court case or arbitration.
- Practice the basic communication and other skills necessarily required to help resolve disputes.
- Understand and develop confidence in acting effectively as neutral facilitators for resolving community conflicts.
- Understand the significance of community mediation in creating peace, harmony, and promoting justice and as a laudatory objective to attain a litigation free society at the village level.

The training encourages engagement between the Resource Persons and the Participants to build communication, trust and motivation. It enables both trainers and trainees to know each other's backgrounds, thoughts, and aspirations, in order to embark on a journey with a shared learning experience.

1.3. Mediation

Mediation is a voluntary and confidential process in which a neutral third party (*the mediator*) assists the parties in communicating with each other, listens to them and creates a space for them to come up with a solution that benefits both the parties.

While a judge or arbitrator decides who is right or wrong, the lens of mediation is focussed on what is right for the parties. A mediator facilitates the process, maintains fairness, helps the parties understand their interests and assists them in reaching a common ground. Mediation is a party-centric process and empowers them to make the final decision with guidance.

Different disputes and different groups of people will need different methods of resolution. Over the years, mediators and academics have identified different mediation styles, with different philosophies, methods and techniques associated.

Broadly speaking, mediation can take many different forms:

- **Facilitative Mediation** – The mediator helps parties communicate and generate their own solutions, without suggesting outcomes.
- **Evaluative Mediation** – The mediator plays a more directive role, sometimes assessing the strengths and weaknesses of each side's case. This form is often used in legal or commercial disputes.

- **Narrative Mediation** – Focuses on the stories parties tell about the conflict, helping them reframe these narratives to reduce hostility and open space for co-operation.
- **Transformative Mediation** – Aims to transform how parties view themselves and each other, by encouraging empowerment and recognition.

Every style has its own value. As the community mediation often involves deep personal connections, social identities and local dynamics, mediators tend to use a more flexible style and adopt tools from several different styles based on the needs of the parties. In particular, the two styles Narrative Mediation and Transformative Mediation have particular value because they deal with both the narratives about the conflict and the relationship between the participants.

1.4. What is Community Mediation?

Community mediation puts a simple, yet powerful process in the hands of common people. **It is mediation done in community, by the community, for the community.**

The Mediation Act defines Community Mediation as "*Any dispute likely to affect peace, harmony and tranquillity amongst the residents or families of any area or locality may be settled through community mediation with prior mutual consent of the parties to the dispute*"

Community mediation has a number of key features:-

- **Accessibility** – It is open to all people, particularly those who are poor and marginalised and cannot afford to take their case to courts due to prohibitive costs.
- **Voluntariness** – People go to community mediation because they trust the process, on account of their own volition and not because they have been forced to do so.
- **Neutrality** – Mediators are trained to remain impartial and neutral so that both parties feel respected and treated equally.
- **Relationship preservation** – community mediation seeks to maintain or develop social connections, instead of the title of a winner or a loser as it happen in the courts.
- **Prevention of escalation** – Small disputes can be resolved before the situation escalates and someone is really hurt emotionally, psychologically, financially or physically.

Community mediators are usually respected community members such as teachers, social workers, religious leaders etc or trained volunteers known for their integrity, honesty and overall trustworthiness. Community mediators do not force parties to agree, but help parties to come up with a plan or solution that all can live with. The process on the face of it will address the dispute that is visible but deep down the focus is on returning peace and harmony to the neighbourhood.



1.5. Narrative Mediation

Narrative mediation can be understood as an idea that conflict is shaped by the narratives or versions people tell. Each party sees themselves as the “victim” and the other as the “wrongdoer.” For example:

- “He grabbed my land and left me with nothing.”
- “She spread lies about me in the community.”

These stories are powerful because they shape emotions and identities. But they are also partial, as they show only one perspective.

In narrative mediation, the mediator:

- Listens carefully to each party’s version.
- Helps them see that their point of view is not the only version.
- Encourages them to consider alternative narratives, more specifically the ones that allow space for cooperation. (*Putting yourself in others’ shoes*)

Example

A boundary dispute between two neighbours:

- Party A’s narrative: “*He is greedy and wants to take my land.*”
- Party B’s narrative: “*He is jealous because my farm is successful.*”

The mediator helps them reframe: “*Both of you care deeply about your land and your families’ survival. The issue is not greed or jealousy but unclear boundaries that can be resolved mutually.*” By shifting the narrative, the hostility reduces, and possibilities for agreement open up.

1.6. Transformative Mediation

Transformative mediation is a practice that focuses on empowering parties to make their own choices and cultivating mutual recognition, transforming both the conflict and the relationship. It aims at two key goals:

1. **Empowerment** – Helping each party feel more capable of expressing themselves and making decisions.
2. **Recognition** – Helping each party acknowledge and respect the other’s perspective.

In transformative mediation, the mediator:

- Creates space for the parties to speak openly.
- Does not rush to settlement but encourages genuine dialogue.
- Supports small moments of recognition (e.g., when one party says, “I see how this affected you”).

Example

In a family dispute, siblings fighting over inheritance may initially only express anger. But through dialogue, one sibling may say: “*I understand you felt neglected when father gave me more responsibility.*” This recognition transforms the tone of the conversation, even before the property issue is resolved.

1.7. Mixture of Narrative and Transformative in Community Mediation

Community mediation deals with people who live in the same locality, perhaps for a lifetime. Even when one dispute is resolved, they still have their relationship. That is why a combination of narrative mediation and transformative mediation is the best approach to community mediation.

- From **narrative mediation**, we benefit from the techniques of narrative and reframing. The parties tell their version fully and the mediator helps reframe their stories from a position of blaming each other to a position of shared concern.
- From **transformative mediation**, we use the focus on empowerment and recognition of all parties. Even small shifts like listening respectfully or acknowledging the other’s feelings can transform the relationship.

The combination of narrative mediation and transformative mediation means that mediation is more than just solving a dispute; it is about repairing relationships and restoring harmony.



1.8. Why this Matters in Community Mediation

- **Conflicts are personal:** In villages or neighbourhoods, disputes are not just about money or land; they are about respect, dignity, and relationships.
- **Parties must continue to live together:** Unlike business disputes, where the chances are that the parties may never meet again, community members remain neighbours, relatives or co-workers.
- **Narratives influence reputation:** In small communities, people care deeply about how others see them. Helping reframe narratives avoids labelling someone as a “cheat” or “liar.”
- **Transformation builds peace:** Empowerment and recognition create long-term respect, making future conflicts less likely.

Summary

Community mediation, more specifically at the village level, offers people an alternative to resolve disputes related to land, housing, families, neighbours, and local resources safely and voluntarily. The disputes are resolved by community members and trained volunteers.

The process is a community-based approach for resolving issues in an informal setting, entirely outside the formal legal system. It is a confidential, neutral and voluntary process where the mediators do not impose any decisions but encourage the parties to talk and understand each other's interests. In community mediation the parties invent their own solutions in a symbiotic manner.

Through community mediation and with the mutual consent of the parties involved, a dispute that is likely to disrupt peace, order or tranquillity among families or residents of a community can be resolved. This enables the procedure to be trusted, flexible and community-focused.

Community mediation is special in a sense that it is available to all, particularly the underprivileged and marginalised. It focuses on the protection of relationships, halting further conflict, and the restoration of peace. **Mediators are often well-known community leaders who are appreciated for their honesty and sense of justice.** Together, they not only resolve disputes but also repair relationships, rebuild trust, and promote long-term peace thereby strengthening dignity and social harmony.

A successful institutionalized community mediation program in a village can ultimately encourage the parties to refrain from the court-based adjudication thereby achieving the exemplary ideal of a “litigation free village” in due course.

Engaging – Activity



Problem: Ramu and Sheela were great friends and neighbours. Ramu, a gardener, shared his delicious fruits with Sheela, who in return provided fresh goat milk. This arrangement soured because Sheela's free-roaming goats constantly wandered into Ramu's yard, making a mess. After trying to solve the problem with a fence, it persisted. The friendship finally broke when Sheela overheard Ramu complaining loudly at a tea shop about how the goats made his life miserable. Feeling publicly betrayed, Sheela stopped giving Ramu milk. Ramu retaliated by stopping the fruit delivery. Now, a silent war exists between the two houses

Task

Seeing this issue, the local committee decided to approach you, a panel of mediators, for assistance. Now, as the community mediator, you have decided to call a meeting with both parties, where you will explain the benefits of mediation and obtain their consent.

POINT TO REMEMBER

Narrative Mediation

By shifting the narrative, the hostility reduces, and possibilities for agreement open up.

Transformative Mediation

Transformative Mediation is a practice that focuses on empowering parties to make their own choices and cultivating mutual recognition, transforming both the conflict and the relationship.

Mixture of Narrative and Transformative in Community Mediation

The combination of narrative mediation and transformative mediation means that mediation is more than just solving a dispute; it is about repairing relationship and restoring harmony.

In community mediation the parties invent their own solutions in a symbiotic manner.

A successful institutionalized community mediation program in a village can ultimately encourage the parties to refrain from the court based adjudication thereby achieving the exemplary ideal of a "litigation free village" in due course.

Goal: Understanding the benefits, practicality and style of Community Mediation

Chapter 2

Understanding Conflict

Conflict is a part of everyday life. Wherever people live, work or communicate, there is likelihood of differences of opinion, misunderstandings and competing interests.

Conflict, though generally perceived as such, is not always bad. Conflict can uncover important issues, bring out hidden problems, and encourage change. The downside to conflict is that it can quickly escalate to the point of hostility, distrust or violence when not properly managed.

For this reason, it is important for community mediators to be familiar with what conflict is, what causes participatory conflicts, and how to manage them positively.

Mapping of the Chapter

- *the nature of conflict,*
- *the types and causes of local disputes, and*
- *the differences between common methods of dispute resolution.*

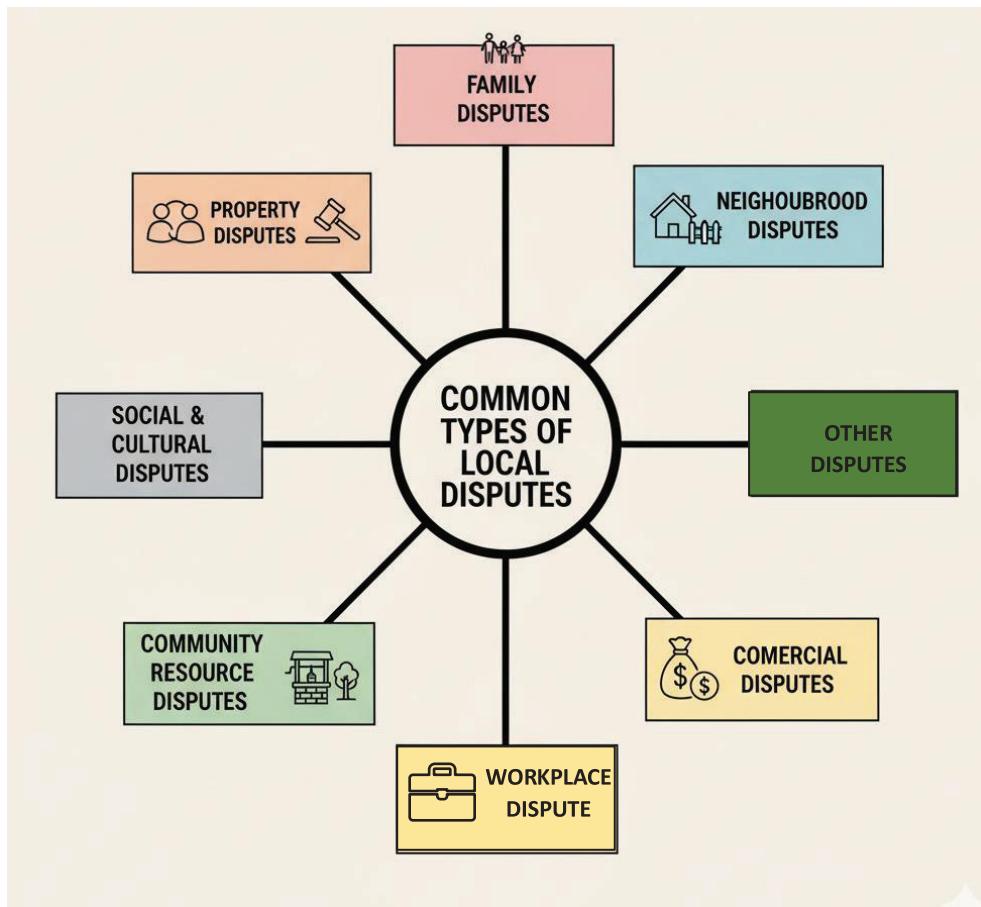
2.1. Types and Causes of Local Disputes

A bird' eye view of the types and root causes of disputes are given below and will be discussed in more detail in the next chapter. This enlisting helps mediators recognize patterns and approach each case with sensitivity.

(a) Common Types of Local Disputes

1. **Family disputes** – quarrels between spouses, disagreements between parents and children or between the siblings, inheritance conflicts, or disputes over dowry.
2. **Neighbourhood disputes** – arguments about boundaries both in houses and farmlands; noise, waste disposal, shared walls or common facilities like water pumps etc.
3. **Property disputes** – ownership of land, tenancy issues, house construction or illegal occupation.
4. **Workplace disputes** – disagreements between employers and workers, wage issues, unfair treatment, or disputes among co-workers.
5. **Community resource disputes** – access to water, grazing land, forests, or common property used by multiple families.
6. **Commercial disputes** – disagreements between small traders, money lenders, or business partners.

7. **Social and cultural disputes** – conflicts arising out of customs, traditions, caste, or religious practices.
8. **Other disputes** – many other disputes, which are not specifically covered by the above heads, or residual disputes are covered under this head.



(b) Causes of Local Disputes

As there is no smoke without a fire, disputes seldom arise without a cause. Common causes include, but are not limited to:

- **Miscommunication or lack of communication** – misunderstandings often escalate when people do not speak openly or clearly.
- **Competition for resources** – land, water, and money are scarce, and competitive stakes often lead to tension.
- **Mistrust and suspicion** – past experiences of betrayal or dishonesty make people quick to assume bad intentions.
- **Unmet expectations** – when one party feels that another has failed to keep a promise or obligation.
- **Power imbalance** – when stronger parties exploit weaker ones, conflict is likely.
- **Cultural and social differences** – traditions, caste identities, and generational gaps can fuel disputes.

- **Economic pressures** – poverty, unemployment, and debt often add fuel to conflicts.

For mediators, the key is to look beyond the surface issues and dive deeper to find out the real cause. Disputes over a wall may not actually be about a wall; they may involve deeper issues around respect, trust or fairness. The mediator, when familiar with these root issues, may assist the parties in finding acceptable solutions that address the underlying need(s) about which the parties are really concerned along with the original or apparent dispute over the wall.

2.2. Comparing Different Methods of Dispute Resolution

The five main methods commonly used in India are **Court, Arbitration, Lok Adalat, Panchayat, and Mediation.**

(a) Court

Courts are the backbone of the formal justice system. They apply laws and deliver binding judgments.

- **Strengths:** Courts have legal authority to adjudicate over disputes, command powers to their orders and their working is governed by technical rules and procedures. Courts are needed for serious criminal charges, and also for litigation regarding complex legal rights and other serious disputes.
- **Limitations:** The judicial process can be very slow. Unless the parties can afford it, it's expensive and time-consuming. In addition, many poor people do not have access to lawyers and find even the fees charged by the courts as barriers to justice. Courts also tend to focus on 'who is right, and who is wrong', and do little to restore or create relationship(s).

(b) Arbitration

Arbitration is a private formal method of dispute resolution where disputing parties appoint an arbitrator(or a panel), a neutral third-party who makes a binding decision.

- **Strengths:** Compared to the courts, arbitration resolutions tend to be quicker, confidential, and may be desirable in the case of commercial disputes. Additionally, in the case of arbitration, the arbitrators are likely to be subject-matter experts.
- **Limitations:** Most arbitrations are conducted in a win/lose scenario. The cost can still be considerable. An arbitration award is binding, meaning thereby that there is minimal opportunity for a compromise.

(c) Lok Adalat

Lok Adalat, meaning "People's Court," is a forum organised under the *Legal Services Authorities Act, 1987*.

- **Strengths:** Free of cost, speedy, and informal. A settlement in Lok Adalat is legally binding, just like a court order. It has been found successful in resolving claims for motor accidents, insurance, traffic challan, family matters or small civil disputes.
- **Limitations:** Primarily focus on settlement by compromise. If the parties do not settle, the case goes back to the court. Some people may feel pressure to settle.

(d) Panchayat

Panchayats are traditional village councils that resolve disputes locally.

- **Strengths:** Familiar, available, quick, inexpensive. Decisions are based on local customs and collective wisdom of the community.
- **Limitations:** Possible bias, especially against women, lower castes, and weaker sections. The decisions generally may not be based on law or principles of equity.

(e) Mediation

Mediation is a voluntary and non-adversarial process in which a neutral third party helps the disputants talk, understand each-other and reach a mutually acceptable solution.

- **Strengths:** Informal, less-expensive, relationship-based, empowering. The parties determine their own solution to the dispute that they were involved in, and this increases satisfaction and compliance. A settlement produced in mediation is owned by the parties as an outcome of their right of self-determination.
- **Limitations:** Mediation relies on the joint intention and voluntariness of both the disputants. If one does not want to mediate, mediation cannot proceed. Mediation also may not be appropriate in criminal matters or in circumstances where there are extreme differences in power.

Unlike courts and arbitration, which impose a decision on the parties, and unlike panchayats, which may reflect local, traditional, or customary practices, mediation is voluntary, party centric, cooperative and designed to preserve relationships.

2.3. Stages of Conflict

Conflict seldom appears all of a sudden. It usually hatches over a period of time, moving through various stages. A skilled mediator must recognize these stages, because early intervention can prevent escalation, while late intervention requires more effort to restore peace.

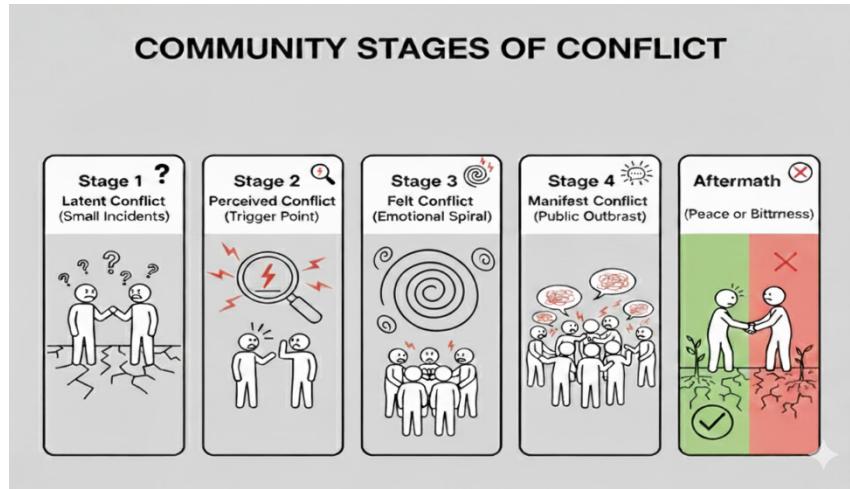
- **Stage 1: Latent Conflict (Opinion/Pebble Stage):** At this stage there are small differences and frustrations that are latent or hidden. These problems may emerge from competition for resources or simply misunderstandings due to cultural differences, but the parties are not yet aware of them publicly.
- **Stage 2: Perceived Conflict (Breakeven Point):** Here, parties slowly start to become aware that there is a problem. A small incident may be the trigger that brings out the latent feelings. The parties are starting to feel unsettled or threatened.

- **Stage 3: Felt Conflict (Spiralling Down):** Emotions such as anger, resentment, or frustration rise and communication begins to break down. Each side begins to see the other side not as a neighbour or partner, but as an opponent, and the gulf widens.
- **Stage 4: Manifest Conflict (Forest Fire):** The conflict is now public and visible to the others. The arguments, threats, or signs of hostility may become visible to people outside of the immediate parties involved, and will often implicate relatives, friends, or the community.
- **Stage 5: Aftermath (Resolution Stage):** The conflict reaches a conclusion, leaving either peace or bitterness behind. If handled positively through mediation or dialogue, it can restore relationships and build trust; if not, it may leave lasting scars that damage the community.

Importance for Mediators

By understanding these stages, mediators can:

- Identify the right moment to intervene.
- Use different strategies depending on the stage, preventive measures in early stages, structured mediation in later stages.
- Recognize when emotions need to be calmed before solutions can be discussed.

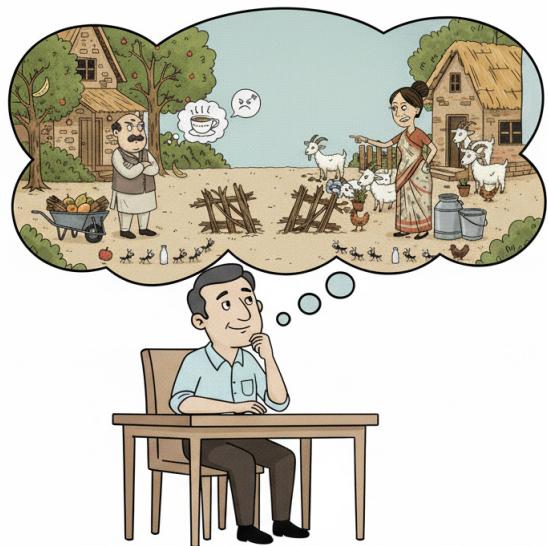


Summary

Conflict is a reality of life, but it doesn't have to result in hostility or broken relationships. By recognising the types of local disputes and the causes of these disputes, participants can understand the sources of conflict in their communities. In comparing various dispute resolution options, they can understand why mediation is particularly appropriate to assist poor and marginalised communities and it is easy to understand, accessible, and it is empowering. Finally, in learning about the cycle of conflict, mediators can understand how disputes escalate and how a timely intervention can move a destructive conflict into an opportunity for dialogue, healing and cooperation.

Engaging Activity

Scenario Update: After the prior meeting with the community mediator, Ramu and Sheela understood the benefits of mediation and noticed their broken friendship; both have consented to the mediation and decided to proceed with it.



Your Task as the Mediator:

POINT TO REMEMBER

- Conflict, though generally perceived as such, is not always bad.
- For Mediators, the key is to look beyond the surface issues and dive deeper to find out the real cause.
- A settlement produced in mediation is owned by the parties as an outcome of their right of self-determination.
- Unlike courts and arbitration, which impose a decision on the parties, and unlike panchayats, which may reflect local, traditional, or customary practices, mediation is voluntary, party centric, cooperative and designed to preserve relationship.

Before the mediation session begins, prepare by conducting a thorough analysis of the conflict between Ramu and Sheela. Based on the information provided, please outline the following:

- Type of Conflict
- Stage of Conflict
- Nature of the Conflict

Goal: Conflict Analysis of the problem for better understanding

Chapter 3

Common Disputes in Community Mediation

Community mediation serves the ordinary needs of people. It is best at resolving disputes that are local, personal and social, which affect people's daily lives and relationships. The purpose of this chapter is to help participants become acquainted with the kinds of disputes that might arise in communities, to find out which of these are amenable to mediation, and in what particular kind of situations some other process might be better suited to their needs.

Mapping of the Chapter

- *The common disputes found in communities.*
- *The scope and limits of mediation.*
- *Matching disputes with appropriate dispute resolution processes.*

3.1. Common Disputes Found in Communities

We have touched this subject in the previous chapter. Now we understand this at a more detailed level.

Every community has its own distinct character. However, certain disputes recur across all communities. These disputes revolve around people's lives including family, land, water or social relationships.

(a) Conflicts over Resources

Resources are necessary for human existence and survival. However they are always scarce or limited. On the other hand human wants are unlimited. Therefore, the continuous demands for access, control, and benefits of these finite resources create tensions within and between the communities.

Common disputes include:

- **land disputes:** ownership; boundaries; tenancy; encroachment on others' properties; partition of property from a family estate;
- **water disputes:** sharing water for irrigation; access to wells or community tanks; piped supply in urban neighbourhoods; polluted water bodies;
- **agricultural and forest resources:** grazing rights; fishing rights; access to produce from forests; common land;

- **public infrastructure:** poor management or inequitable access to road, electric power, fuel, dam or channels.

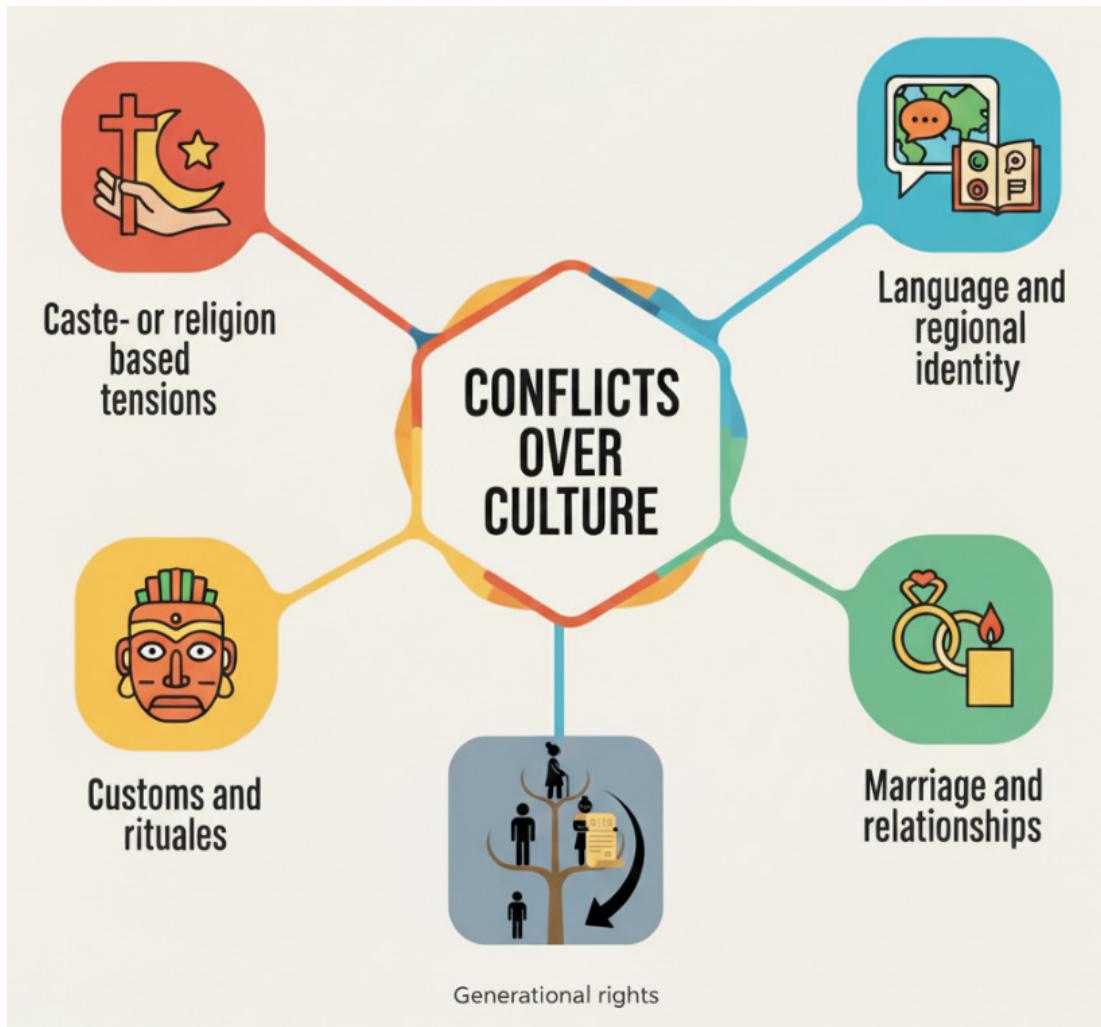


(b) Conflicts over Culture

Culture shapes people's identity and daily lives. Culture-based disputes tend to be emotional and sensitive, since they touch on dignity, traditions or recognition.

Common disputes include:

- **Caste-or-religion-based tensions:** Discrimination, exclusion, or clashes between groups.
- **Language and regional identity:** Disputes over educational, official, and associate uses of languages.
- **Customs and rituals:** Conflicts about festivals, places of worship, or traditional practices.
- **Marriage and relationships:** Resistance to inter-caste or inter-religious unions.
- **Generational Conflicts:** Disputes about participation, recognition, or treatment of minor cultural groups.



(c) Conflicts over Identity

Identity is closely associated with politics, economics, and social status, or standing in equality or status terms. When groups feel excluded or marginalised, disputes arise over power and recognition.

Common disputes include:

- **Political disputes:** Rivalries between supporters of different parties or affiliations within a community.
- **Economic inequality:** Unequal access to jobs, resources, or government schemes.
- **Representation and participation:** Disputes over leadership roles in local bodies, committees, or cooperatives.
- **Generational conflicts:** Tensions between elders focusing on traditional values and the new generation seeking modernity.
- **Community status:** Feelings of alienation, lack of dignity, or under-representation in decision-making.



(d) Other Community Issues

Communities also experience disputes that affect daily life beyond resources, culture or identity.

Examples include:

- Disputes between shopkeepers and customers over goods or services.
- Conflicts among neighbours over noise, waste disposal, or stray animals.
- Workplace disputes in small industries or informal labour arrangements.
- School-related disputes such as quarrels between parents and teachers.

3.2. The Scope and Limits of Mediation

While mediation is powerful and quite effective in many disputes, it is not a panacea or a solution for each and every dispute. Understanding its scope and limits is essential for a mediator. It helps a Mediator to use the mediation in the best possible manner. It also helps the mediator not to resort to this process when it is not workable in a particular type of dispute. Understanding this distinction is indispensable.

Scope of Mediation

Mediation works best when:

- Parties have ongoing relationships (family, neighbours, community).
- Disputes are about interests, needs, or misunderstandings, not just strict legal rights.
- Participation is voluntary, and both sides are willing to talk.
- Issues can be resolved through mutual dialogue and compromise.
- The goal is to preserve peace and harmony, not to declare winners.

Limits of Mediation and Non-Mediable Matters

Mediation is not suitable when:

- Serious crimes are involved (murder, rape, etc.).
- Disputes involve public policy or government regulations.
- Cases need strict legal enforcement (e.g. eviction).
- Parties refuse to mediate or lack capacity to participate
- Some third party interest is involved but such third party is not joined in mediation.

By recognizing these limits, mediators avoid overstepping their role. It is necessary to protect the credibility of the process. If a mediator tries to handle such cases, it not only risks injustice but also damages the credibility of community mediation as a whole, which may hit at its very foundation. Instead, mediators should guide such disputes to the appropriate forums such as courts, police or government authorities.

3.3. Matching Disputes with Appropriate Processes

Different disputes may require different handling mechanisms. Not all disputes can be resolved in the same manner. Such a step would be counterproductive and may create more problems than solutions. A mediator's skill includes matching the dispute with the appropriate process. For example:

- **Family disputes** → mediation tends to be optimal because it looks at the relationships between people and what arrangements will be made for the future.
- **Small property or land disputes** → mediation is effective when ownership is not in question but the boundaries or usage might be challenged. If ownership is in dispute, then the court process or something else may be better suited.
- **Water disputes** → mediation, or community negotiation would be better than court because it requires a shared solution that will allow for cooperation by all.
- **Commercial disputes** → mediation should work on smaller, less complicated disputes, while larger or complex contracts may have to go to arbitration.
- **Community disputes (neighbourhood, school, workplace)** → mediation can provide solutions quickly which are friendly and mutually acceptable.
- **Criminal cases** → serious crimes can never be mediated under any circumstances, but minor offences (could include the quarrel cases, petty theft, or random slap cases) might be referred to Lok Adalat or other restorative practices sometimes. In many such minor offences the Statutes also provide for compounding or waiver. So, in a way, the Legislature has provided power to the parties to settle the disputes at their end.

This matching is important because it also ensures the parties are directed to the right process, which is efficacious, can save time and provide assurance against giving false hopes.

Summary

Community mediation serves as a helpful means for addressing everyday disputes impacting common people.

Community mediation can provide a way to a peaceful dispute resolution process as a means to resolve conflicts that is cheap, accessible, and respectful of relationships.

Meanwhile, community mediators need to understand their limitations and not to extend the mediation to certain disputes which are beyond its scope. Dispute involving serious crime, a matter of public law, and disputes involving unwilling parties cannot be mediated.

By focusing on matching the dispute with the appropriate dispute resolution process, mediators not only can respond to disputes appropriately, but they can also enhance trust in the entire alternative dispute resolution field.

Through this process, community mediation can be considered a process of not only putting an end to conflict but also a means of fostering harmony, justice, and cooperation at the local level.

Engaging Activity



As a community mediator, you must be prepared for the variety of issues that can arise between people. Based on your own observations and experiences of community life, what are the most common types of disputes that occur between neighbours, within families, or among local groups?

Briefly describe a typical, realistic scenario that illustrates each category of conflict you have identified.

POINT TO REMEMBER

By focusing on matching the dispute with the appropriate dispute resolution process, mediators not only can respond to disputes appropriately, but they can also enhance trust in the entire alternative dispute resolution field.

Goal: Understanding Disputes and Adequate Approaches

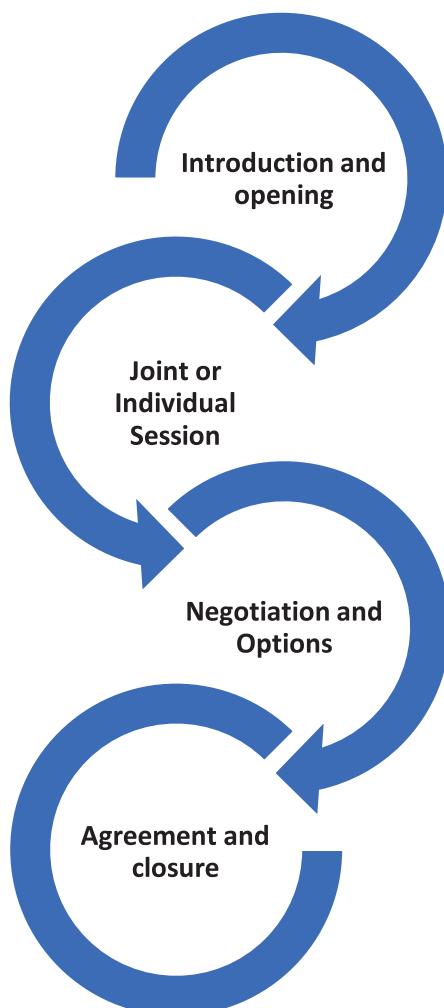
Chapter 4

The Mediation Process

Mediation is like a journey that has a beginning, a middle and an end. To avoid confusion, we can think of the whole process in **four main stages**. Within these stages, there are **seven simple steps** that the mediator and the parties go through.

Mapping of the Chapter

- *Opening and Introduction*
- *Joint Session and Individual Session (Private Meeting)*
- *Impasse In Mediation and Use of Individual Sessions*
- *Negotiation and Option Generation*
- *Agreement and Closure*
- *Co-Mediating in Community Mediation*
- *Community Mediator's Checklist*



4.1. Stage 1: Opening and Introduction

This is the onset or beginning of the mediation. The first few minutes are critical because these early minutes set the tone for the ensuing session. If the parties feel comfortable, safe and respected, they will be more likely to share and collaborate in the process. The opening stage has two steps:

Step 1: Preparation and Welcome

Before starting, the mediator ensures that:

- The room is neutral, quiet, and comfortable.
- Only those directly involved are present; no outsiders are present as they may disturb or influence the process or outcome.
- Both parties are seated equally. This gives them a feeling of being important and having equal responsibility in the dispute resolution. So no one gets one more importance as compared to others. Thus, seating arrangement plays an important role and cannot be ignored.

Then the mediator welcomes the parties with a warm and respectful tone. This reassurance is important because many people come in with fears, doubts or suspicion.

Step 2: Setting Ground Rules and Opening Statements

The mediator explains **ground rules** in simple terms:

- Speak respectfully.
- Listen without interrupting.
- Keep things confidential.
- Focus on solving the problem, not attacking each other.

After both parties are in agreement, each party is allowed to make an opening statement. This is their opportunity to tell their version of the facts uninterrupted. The mediator will listen, show empathy, and may paraphrase what was stated, so that the speaking party may get the assurance that it has been duly understood. This phase of mediation allows both parties to feel heard - this is a meaningful first step in understanding each other.

Engaging Activity



Scenario Update: The day of the mediation has arrived. Both Ramu and Sheela are in the community hall. The atmosphere is thick with tension. The two old friends, who once shared daily laughter, now sit at opposite ends of the table, refusing to make eye contact. Ramu is staring intently at his hands, while Sheela is looking out the window. They are both visibly uncomfortable and awkward, clearly unsure of what to expect but willing to be here as a last resort. The silence is heavy, and the success of this entire process rests on your ability to navigate these first few critical moments.

Task: As the mediator, demonstrate how you would manage the session's awkward opening to make Ramu and Sheela feel comfortable enough to share their perspectives.

Goal: Healthy Environment and Opening Session

4.2. Stage 2: Joint Session and Individual Session (Private Meeting)

After the opening, the mediator moves to the second stage. This stage is about clarifying the issues and beginning the real conversation and making the parties participative in the process.

It has **two steps**:

Step 3: Joint Discussion

Both parties are now encouraged to talk to each other directly, with the mediator guiding. The mediator:

- Identifies the main issues.
- Encourages respectful dialogue.
- Highlights areas where the parties already agree.

The mediator helps shift the focus from *positions* ("I want this land") to *interests* ("I need enough land to farm for my family"). This is the heart of mediation helping people listen, understand, and start moving toward creative and workable solutions.

Engaging Activity



Scenario Update: The heavy silence has lifted. Ramu and Sheela have both shared their initial narration, and now proceed to the Joint session

Task: As the mediator, demonstrate how you would move the conversation from blaming each other to solving the problem by setting a clear agenda and reframing their negative complaints to focus on their positive, underlying interests in friendship and respect.

Goal: Narrating the negative past to a positive Future and Understand the real root cause

4.3. Impasse in Mediation and Use of Individual Sessions

a. What is an Impasse?

An impasse can be described as a point in mediation where the conversation becomes clogged, stuck and repetitive and no further progress can be made. The parties may feel hopeless in the session and feel there is no solution in sight and no point of further discussion

b. Reasons for Impasse

- Strong emotions like anger, fear or mistrust.
- Parties are rigid and uncompromising.
- Misunderstandings or wrong assumptions.
- Too much focus on past blame instead of future solutions.
- Pressure from family, friends, or community makes agreement difficult.

c. Dealing with Impasse through Individual Session

- **Private Meetings:** The mediator meets each party separately in a safe and confidential setting.
- **Cooling Down:** provides safe space that can allow feelings to settle, demonstrated and reduces the tension.

- **Reality Testing:** Mediator helps parties think about practical outcomes and what may happen if there is no agreement.
- **Reframing Issues:** The mediator encourages parties to look at the problem differently and find common interests.
- **Building Trust:** Parties feel heard without fear of judgment, which restores confidence in the process.
- **Strategic Return:** After individual sessions, the mediator brings parties back together with fresh ideas and renewed focus.

Step 4: Individual Session (Private Session, if needed)

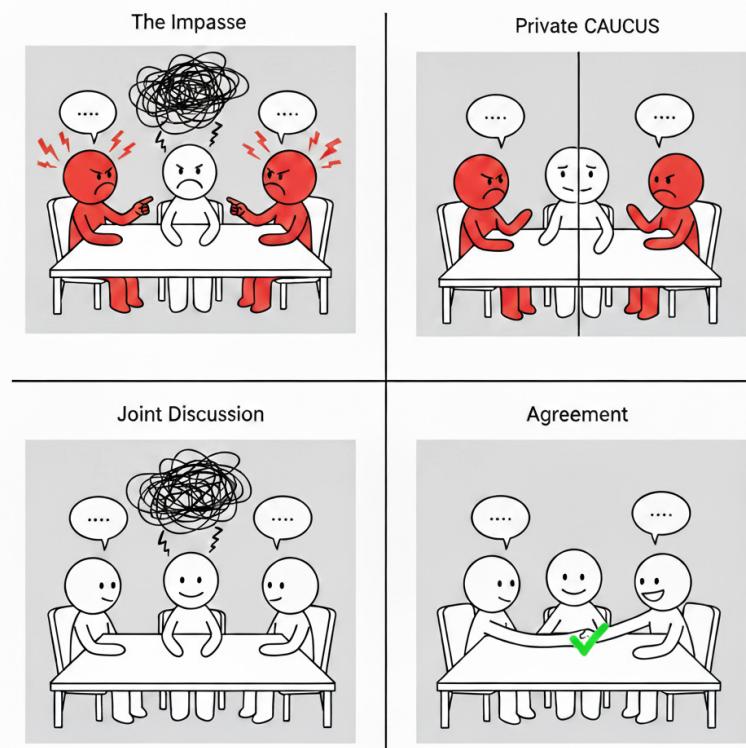
Sometimes emotions are too strong or one party feels unsafe or shy. In such cases, the mediator may meet each party separately. This is called an **Individual Session or a single/private session.**

In individual session:

- The mediator listens privately to the concerns of respective parties.
- The party may share ideas or fears they do not want to say in front of the other.
- The mediator may help them think of realistic options.

Everything said in an individual session remains confidential unless the party permits any particular information to be shared.

Example: In a family dispute, a woman may privately tell the mediator that she feels pressured by relatives but does not want to say it publicly. The mediator can then handle the session with this knowledge, without disclosing the private detail.



Engaging Activity



Scenario Update: Ramu has explained his frustration with his garden being repeatedly damaged, and Sheela has expressed his deep hurt over the public complaint at the tea shop. They are now engaging in conversation, but it's stuck in a loop of blame. Ramu insists, "You need to control your goats!" while Sheela retorts, "You should have spoken to me privately, like a friend!"

Task: The Temperature of the room is rising, use individual Session to understand the depth behind the words and recognise the core interest of the parties

Goal: Resolving Impasse and Individual Session

4.4. Stage 3: Negotiation and Option Generation

Once issues are clear, the parties move to exploring solutions. This is the most creative stage of mediation. It has **two steps**:

Step 5: Generating Options

The mediator encourages brainstorming. Both parties are invited to suggest possible solutions, howsoever simple or unusual. At this stage:

- No idea is rejected immediately.
- All suggestions are written down.
- The aim is to create as many options as possible.

Example: In a water-sharing dispute, options could include:

- Creating a time schedule for usage.
- Repairing and maintaining the pump together.
- Contributing money equally to install another pump.

By putting all ideas on the table, the mediator helps the parties see that various solutions are possible.

Step 6: Negotiation and Consensus

Now the mediator helps the parties test each option. This involves:

- Discussing the practicality of each idea.
- Checking whether both sides find it acceptable.
- Encouraging compromise and trade-offs.

The mediator may use techniques like:

- **Reality testing:** *"If we try this solution, how will it work tomorrow and next month?"*
- **Highlighting common interests:** *"Both of you want peace in the neighbourhood. How can we get there?"*

The goal is to make the parties aware they have a multitude of solutions and that they have to exercise a choice or find out a hybrid solution, by evaluating various solutions, and move toward **consensus**, a solution both parties can live with, even if it is not a perfect solution.

Engaging Activity



Scenario Update: The air in the room is lighter. Ramu and Sheela have acknowledged the value of their friendship and apologised for the hurt they caused. They are now looking at each other, ready to find a practical way to move forward, both as neighbours and as friends.

Task: As the mediator, facilitate a brainstorming session to generate concrete, practical, and future-focused solutions that will prevent the conflict from happening again.

Goal: Generating Option and Solutions

4.5. Stage 4: Agreement and Closure

This is the final stage of mediation. It has **one important step**.

Step 7: Agreement (Full, Partial, or No Agreement) and Closing

At this stage, there are three possible outcomes:

1. **Full Agreement** – The parties agree on all the issues.
2. **Partial Agreement** – Some issues are resolved, others remain.
3. **No Agreement** – The parties cannot agree, but the discussion has clarified the issues and may help in future.

If there is an agreement, it should be written clearly, with details such as:

- Who will do what.
- By when.
- Any costs or contributions.

4.6. Co-Mediating in Community Mediation

Community mediation under the Mediation Act, 2023 is always conducted by a panel of three mediators. This means mediators work together as a team, a process called co-mediation. Co-mediation is used because it brings more resources to the table, creating a more balanced and insightful process.

(a) Benefits of Co-Mediation?

- **Broader Perspective & Trust:** A diverse Team ensures fairness and balance
- **Healthy Environment:** A diverse panel with people of different backgrounds (Gender, age, religion, etc) also gives an assurance to the parties
- **Better Power Dynamics:** More Mediators can ensure all people's opinions have been heard and understood
- **Support system:** mediators can share tasks and manage stress.
- **Prevents Mediator Bias:** It provides a built-in support system, allowing mediators to check their own biases and stay fresh, especially in emotionally draining disputes

(b) How to Co-Mediate Effectively

- **Strategic Preparation:** Meet before the session to analyse the parties' cultural dynamics and personalities, creating a tailored plan for how to engage each person respectfully and effectively.
- **Dynamic Role Assignment:** Divide roles strategically based on the parties' needs (e.g., one builds rapport, one guides the discussion) and be flexible enough to rotate these roles as the session dynamics change.

- **Present a United Front:** Always maintain a common voice and professional alignment in front of the parties, saving any disagreements for a private discussion to build their trust in the process.
- **Unified Session Strategy:** Collectively agree on the primary goal for the session and plan for difficult moments, including a discrete signal to take a private break if you need to re-strategize.
- **Post-Session Strategic Review:** After the parties leave, debrief immediately to share observations, deepen your collective understanding of the situation, and refine your approach for reaching a solution.

4.7 Community Mediator's Checklist

Stage	What to Check
Before Session	Confirm dispute is community-related (peace/harmony issue)
	Obtain mutual consent of all parties
	Constitute a panel of 3 mediators (preferably one woman)
	Ensure no conflict of interest among mediators
	Arrange a neutral and accessible venue
	Prepare ground rules (confidentiality, respect, voluntary participation)
During Session	Explain the process and ground rules
	Allow uninterrupted opening statements
	Identify and summarise key issues
	Facilitate respectful dialogue
	Encourage generation of options
	Manage impasse (Individual Session, breaks, reframing)
Settlement & After	Ensure fairness and balance between parties
	Draft agreement in clear, simple language
	Read aloud and confirm voluntariness
	Obtain signatures of all parties and mediators
	Provide copies of the agreement to parties
	Record outcome (settled / not-settled / referred)
	Refer unresolved cases to DLSA / Lok Adalat / court if needed
	Community follow-up for compliance

Summary

So, the mediation process in simple terms is:

- **Stage 1 (Opening/Introduction):** Prepare, welcome, set ground rules, and let each party speak.
- **Stage 2 (Joint Session & Individual Session):** Discuss issues openly, and if needed, hold private meetings.
- **Stage 3 (Negotiation & Options):** Explore solutions, test them, and work toward consensus.
- **Stage 4 (Agreement & Closure):** Record settlement, sign it, and close positively.

Within these stages are the **seven clear steps** that guide the mediator and the parties through a safe, respectful, and productive journey

Stage	Objective	Goal	Mediator's Key Tasks
Stage 1: Introduction	Build trust, lower tension, and create a safe, neutral environment	Parties understand the process, feel respected, and are willing to engage honestly	<ul style="list-style-type: none"> • Prepare a healthy environment and neutral seating, • Welcome with warmth; explain the mediator's neutrality. • Outline process and confidentiality (incl. Individual Session rules). • Co-create ground rules: respect, no interruption, listen actively, and confidentiality. • Invite each party to make an opening statement without interruption, and encourage people to openly speak

Stage 2: Joint Session & Individual Session	Clarify facts, positions, and underlying interests; manage emotions	Agenda or Points of discussion, understand each sides interest, needs, goals with clear understanding of disagreements and areas of agreement; emotions under control	<ul style="list-style-type: none"> • Active Listening, • Gather Information: ask open-ended questions, probe gently • Understand the root cause of conflict and impasse • Perception of each other: Allow Parties to listen to each other • Reframe positions into interests • Summarize and write down Issue List in neutral language. • If tension rises → shift to Individual Session: meet privately, • validate emotions,
Stage 3: Negotiation & Options	Move from problems to possibilities; test and refine ideas into workable options	Parties co-create realistic, fair, and interest-based solutions	<ul style="list-style-type: none"> • Facilitate brainstorming: no judgment, all ideas noted. • Use creativity tools: role reversal, future-back scenario. • Organize options by theme (cost, timing, relationship, resources). • Reality test: • Use objective criteria (laws, standards, fairness benchmarks). • Encourage trade-offs (logrolling, package deals). • Manage fairness check: ensure balance, reciprocity, sustainability. • Narrow down longlist → shortlist → draft provisional package.

Stage 4: Agreement & Closure	Convert consensus into binding commitments; end with clarity and dignity	Clear written agreement (full, partial, or summary of understandings); parties leave with confidence	<ul style="list-style-type: none"> • Draft agreement in precise terms: who, what, when, costs, timelines. • Make terms SMART (Specific, Measurable, Achievable, Relevant, Time-bound). • Include monitoring, verification, and escalation mechanisms (what happens if dispute reappears). • If partial: record resolved + unresolved issues; if no agreement: capture progress for future. • Read back terms, confirm consent, invite corrections. • Provide signed written copy to both parties. • Close with respect: thank parties, recognize effort, encourage positive outlook, explain next steps.
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Chapter 5

Communication Skills in Mediation

In mediation, the point is not to decide on who is right or wrong but to find out what is right. It is to allow the parties to talk to each other, listen to each other and understand each other. This is why mediation is based on communication skills. A mediator's ability to listen carefully, ask the right questions, and manage feelings is often a determining factor in mediation. In our day-to-day life all of us communicate. But mediation requires a specific type of communication - calm, respectful, neutral and with focus on understanding.

Mapping of the Chapter

- *Active Listening*
- *Non-Verbal Communication*
- *Summarising and Paraphrasing*
- *Asking Open and Neutral Questions*
- *Managing Emotions through Communication*
- *Non-Violent Communication*

5.1. Active Listening

Listening may seem simple, but true **active listening** is quite rare. Often, people hear words but do not pay attention to feelings or meanings behind them. In mediation, active listening means listening not just with the ears, but also with the eyes, mind and heart. Active listening is giving full attention to the speaker, understanding both their words and emotions, and showing them that they are being heard.

(a) Key elements include:

- **Focusing completely** on the speaker (no distractions).
- **Showing interest** through eye contact and body language.
- **Acknowledging feelings** by nodding, using small words like "I see," "Go on."
- **Clarifying** when something is unclear.

(b) Why Active Listening Matters in Mediation

- It helps parties feel respected and valued.
- It reduces anger because people want to be heard.

- It helps the mediator understand hidden needs behind the conflict.
- It builds trust in the process.

5.2. Non-Verbal Communication

Words are only part of communication. Much of what people say is expressed through **tone, gestures, facial expressions and posture**. Mediators must be skilled at noticing these signals and using their own body language to create safety.

(a) Types of Non-Verbal Communication

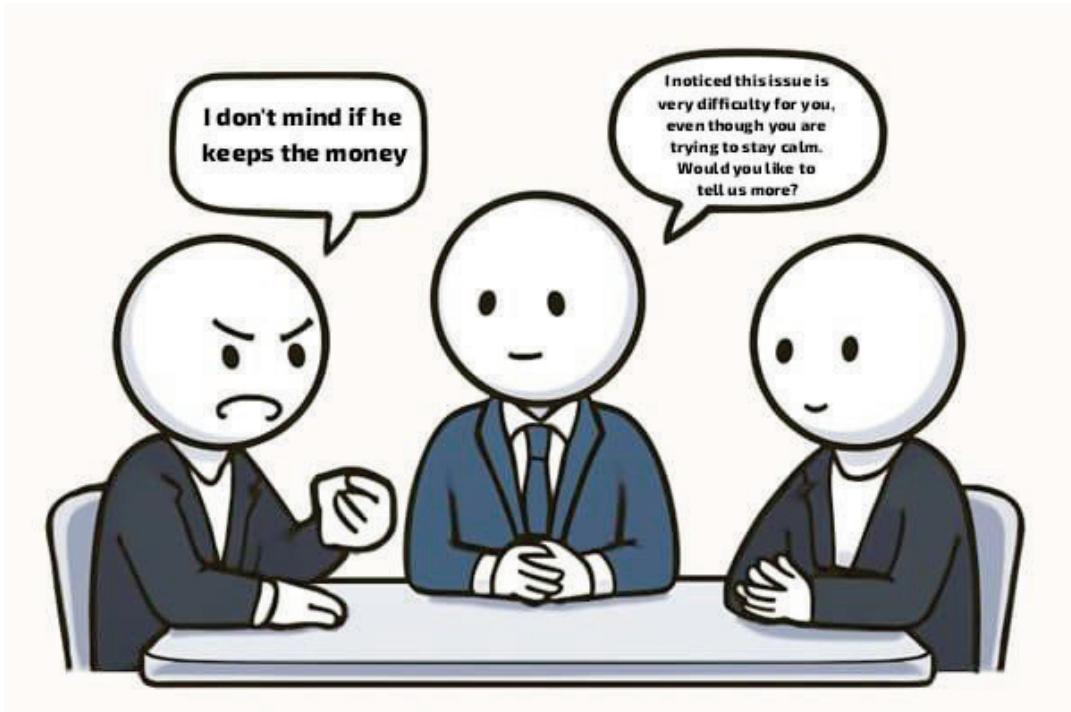
1. **Facial expressions** – anger, sadness, relief, or joy can be seen on the face.
2. **Gestures** – pointing fingers, crossed arms, or shaking fists may show defensiveness or aggression.
3. **Posture** – leaning forward can show interest; turning away can show disengagement.
4. **Eye contact** – steady eye contact shows attentiveness, but staring may feel intimidating.
5. **Tone of voice** – the same words can sound respectful or hostile depending on tone.
6. **Silence** – sometimes silence indicates reflection, other times it shows resistance.

(b) Why it Matters in Mediation

- Mediators can sense hidden feelings by observing body language.
- Parties may not always say openly what they feel, but their bodies may reveal it.
- The mediator's own body language sets the tone—calm, open posture encourages trust.

(c) Mediator's Own Non-Verbal Skills

- Sit with an open posture, not crossed arms.
- Nod occasionally to show understanding.
- Keep tone neutral, never sarcastic or dismissive.
- Allow silence—sometimes people need a pause to think.

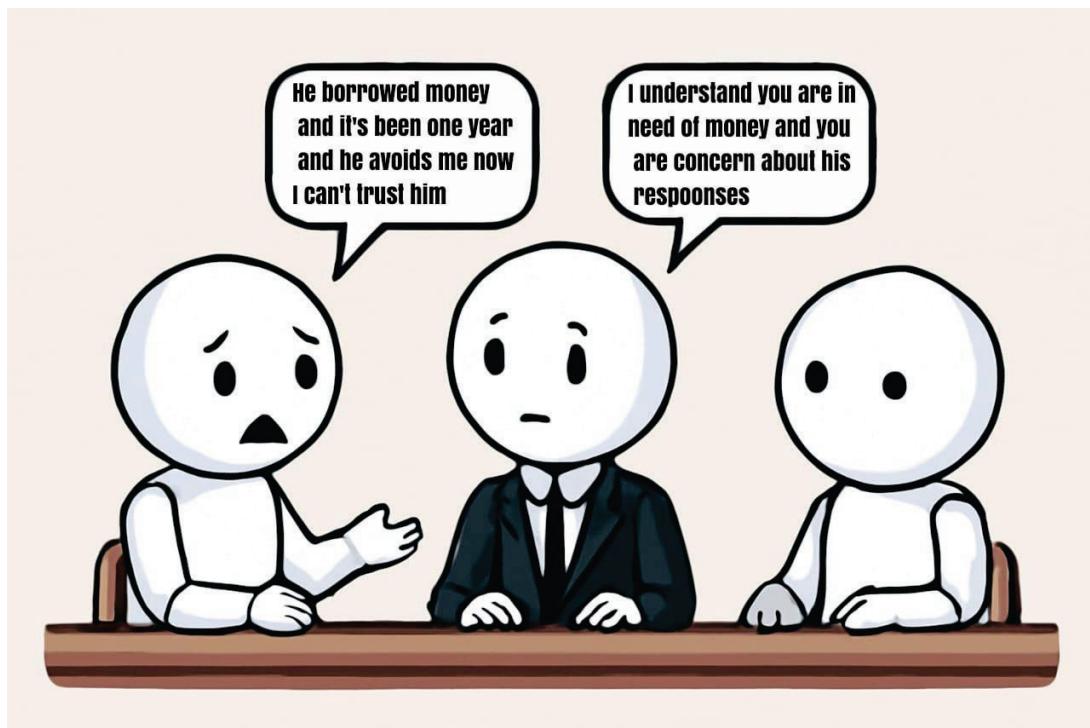


5.3. Summarising and Paraphrasing

Listening is not enough. Mediators must also **show** that they have understood. This is where summarising and paraphrasing come in.

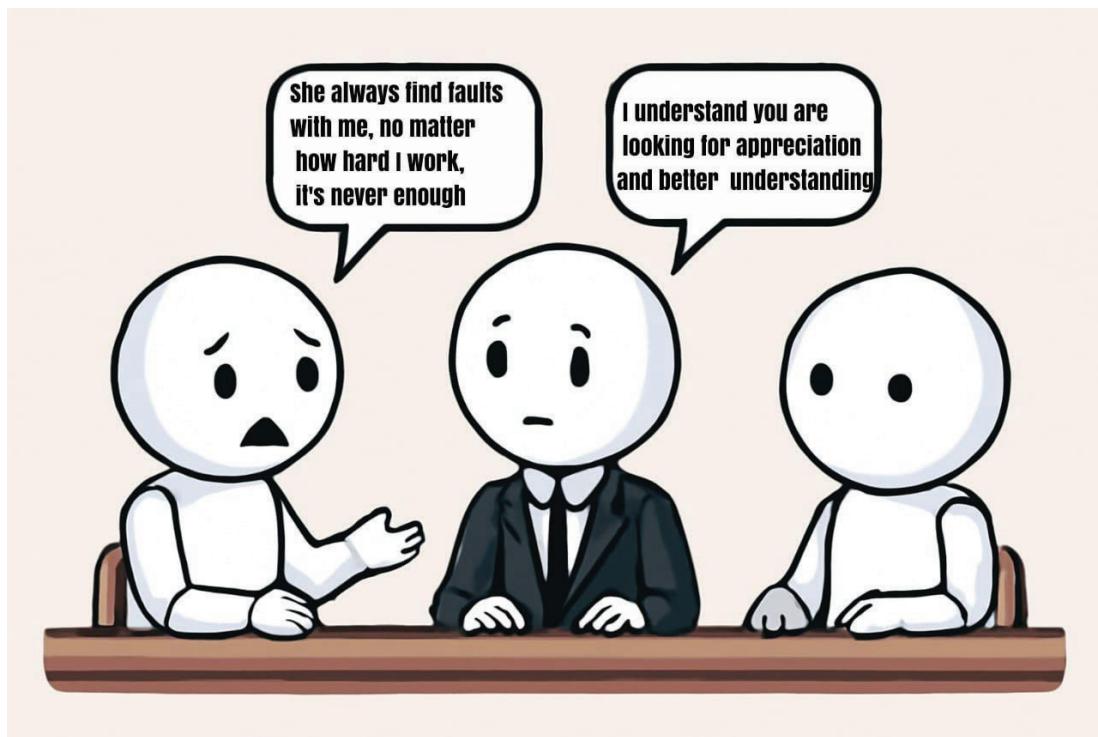
(a) What is Summarising?

Summarising is giving a short version of what the speaker said, focusing on the main points



(b) What is Paraphrasing?

Paraphrasing is restating what someone said in your own words, often to make it clearer or to highlight emotions.



(c) Why These Skills Matter

- They confirm to the speaker that they were understood.
- They help clarify misunderstandings.
- They reduce repetition and help move the conversation forward.
- They make emotional issues visible without judgment.
- After summarising, ask: "*Did I understand correctly?*"

5.4. Asking Open and Neutral Questions

Mediators do not interrogate; they **guide conversations** with questions. The right kind of question helps parties explore issues deeply and move toward solutions.

(a) Open Questions vs. Closed Questions

- **Closed questions:** Can be answered with “yes” or “no.”
Example: “*Did you take the money?*”
- **Open questions:** Invite explanations, stories, and feelings.
Example: “*Can you tell me what happened when you gave the money?*”

Open questions are better in mediation because they:

- Encourage dialogue.
- Avoid blame.
- Give the speaker control over their version.

(b) Neutral Questions

A neutral question does not show bias. It avoids words that sound judgmental or accusatory.

- Biased: “*Why are you always unfair to him?*”
- Neutral: “*How do you see the situation between you and him?*”

(c) Useful Open and Neutral Questions in Mediation

- “Can you explain what this issue means to you?”
- “What are your main concerns right now?”
- “How do you think this problem can be solved?”
- “What would be a fair outcome for you?”
- “How will this solution affect your family/community?”

5.5. Managing Emotions Through Communication

Conflict is emotional. Anger, fear, sadness and frustration are natural when people feel that they have been wronged. If the emotions are not managed, they can explode and block resolution. A mediator’s communication skills are vital in handling emotions.

(a) Recognising Emotions

Mediators must notice both verbal and non-verbal signs of emotions.

- Raised voice, harsh words → anger.
- Avoiding eye contact, silence → fear, guilt or shame.
- Tears, trembling voice → sadness.

(b) Validating Emotions

Acknowledging emotions reduces tension. This does not mean agreeing with the person, but simply recognising their feelings.



(c) Cooling Strategies

- **Allow venting:** Give a few minutes to express feelings without interruption.
- **Pause and breathe:** Suggest a short break if things get heated or atmosphere getting surcharged.
- **Use calming tone:** Speak slowly, softly and respectfully.
- **Shift focus:** Move discussion from personal attacks to problem-solving.

(d) Encouraging Constructive Expression

- Guide parties to express emotions without blame.

This changes the attack into a personal expression, which is easier to discuss.

(e) Mediator's Self-Control

Mediators must not be provoked or show frustration. Staying calm, neutral and respectful at all times is essential.

5.6. Non-Violent Communication (NVC)

Conflicts often escalate because people express themselves through blame, accusations or judgment. **Non-Violent Communication (NVC)** is a way of speaking and listening that reduces hostility and increases understanding.

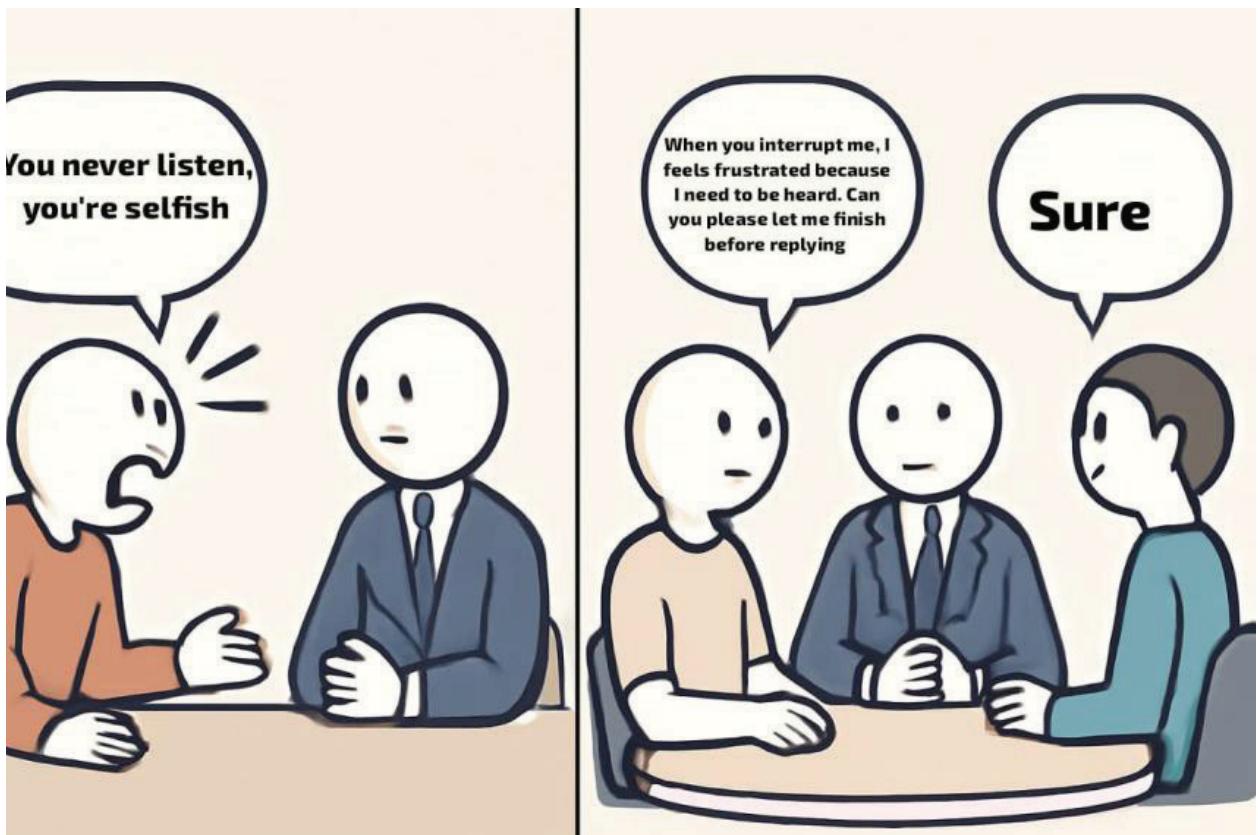
(a) What is NVC?

NVC focuses on four elements:

1. **Observation** – Describe facts without judgment.
2. **Feelings** – Express emotions honestly.
3. **Needs** – Identify underlying needs behind emotions.
4. **Requests** – Ask for clear, do-able actions instead of demands.

(b) Why NVC Matters in Mediation

- Prevents escalation by avoiding blame and labels.
- Helps parties talk about needs rather than positions.
- Encourages empathy—people listen when they don't feel attacked.
- Promotes constructive dialogue leading to practical solutions.

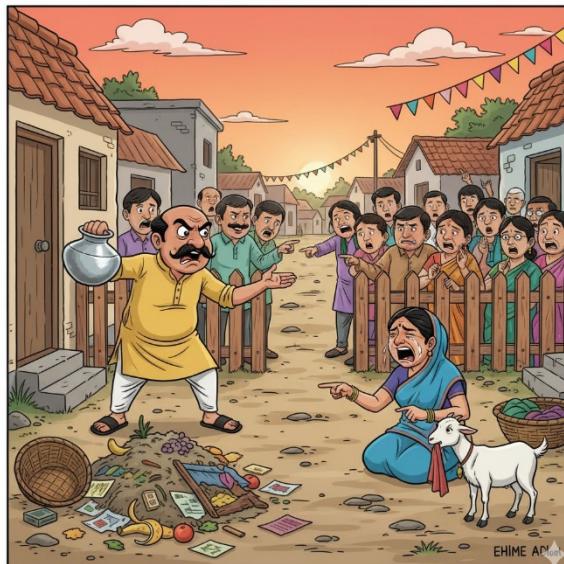


Summary

Communication is the lifeblood of mediation. Skills are necessary to create safe spaces for dialogue. These skills include:

1. **Listen fully without interrupting** – give the speaker time to finish.
2. **Avoid distractions** – stay focused on the person speaking.
3. **Show understanding** – nod, make eye contact and use short encouragers like “I see” or “Go on.”
4. **Don’t plan your reply while listening** – concentrate on the speaker’s words and feelings. It is meant to understand and not to reply.
5. **Summarise regularly** – repeat back main points to ensure clarity.
6. **Paraphrase in neutral words** – restate what was said without bias or judgment.
7. **Check understanding** – ask, “Did I get that right?”
8. **Notice non-verbal signals** – observe body language, tone and silence.
9. **Use calm, open body language yourself** – uncrossed arms, neutral tone and steady eye contact.
10. **Ask open questions** – encourage explanations instead of yes/no answers.
11. **Frame neutral questions** – avoid blame, keep wording balanced.
12. **Encourage parties to speak more** – invite them to share stories, feelings, and concerns.
13. **Explore deeper levels of meaning** – listen for needs, values, and unspoken concerns.
14. **Give space for silence** – let parties think before responding.
15. **Validate emotions** – acknowledge feelings without agreeing or disagreeing.
16. **Reframe harsh statements into respectful ones** – guide parties to express needs, not accusations.

Engaging Activity



Scenario: Ramu was very proud of his son for passing his exams. To celebrate, he sent his neighbour, Devu, some kheer in a nice steel pot. Unfortunately, Devu's goat accidentally knocked the pot over, making a big dent. Devu felt awful. She was too poor to fix it and too scared to admit what happened, so she returned the dented pot without saying anything. When Ramu saw the dent, he didn't think it was an accident. He decided Devu was jealous of his son's success and had damaged the pot on purpose. He went around the village, spreading this rumour about her.

Because of the gossip, people started treating Devu badly. Hurt and angry from being shamed, Devu got back at him by throwing her garbage into Ramu's yard. Now, the whole village is fighting about it. The villagers took both Ramu and Devu to community Mediation

Task: How would you use the techniques of communication (summarizing, reframing, NVC, etc) to resolve their dispute and to move the conversation from personal accusations to a constructive dialogue about the importance of communication.

POINT TO REMEMBER

In mediation, the point is not to decide on who is right or wrong but to find out what is right. If the emotions are not managed, they can explode and block resolution.

Goal: Importance of Better communication and Language

Chapter 6

Role of the Community Mediator

Community mediation is like a bridge. On one side stands a person who feels angry, hurt, or unheard. On the other side stands another person, equally upset or defensive. Between them lies a gap filled with misunderstanding, mistrust and conflict. The community mediator is the bridge that helps both sides cross safely and meet in the middle.

Mapping of the Chapter

- *Who is a community mediator*
- *What they do in the mediation process*
- *Essential qualities of a community mediator*
- *Boundaries of a Community Mediator's Role*
- *Common Ethical Mistakes in Community Mediation*

6.1. Who is a Community Mediator?

A community mediator is a neutral third party who assists the community or the disputed group in resolving the problem by providing a healthy environment and encouraging open conversation, understanding one-another and work out their own solutions.

They are not judges or lawyers. A community mediator does not decide who is right or wrong, or impose a solution, nor give legal advice. Instead, they act as:

- **Facilitator of communication** – ensuring parties listen and speak respectfully.
- **Guardian of the process** – keeping the discussion safe, fair, and productive.
- **Encourager of solutions** – guiding people to find options that work for everyone.

In simple terms, a community mediator transforms and aids parties in reaching a solution by narrating both the sides and understanding the crux of the issue. The power to make decisions always stays with the people in conflict.

6.2. What Does a Community Mediator Do?

The community mediator plays many roles, both **practical** and **emotional**:

1. **Communicator** – helping parties understand each other's words, tone, and feelings.

2. **Translator** – rephrasing harsh or confusing language into something constructive.
3. **Resource Expander** – helping parties think of new ideas, connect to resources, or seek outside help.
4. **Agent of Reality** – reminding parties what is realistic and possible, without imposing their own views.
5. **Guardian of Durable Solutions** – ensuring agreements are practical and likely to last.
6. **Manager of Emotions** – allowing parties to express anger or hurt, but preventing escalation.
7. **Protector of the Process** – stopping misuse of mediation (e.g., one side trying to delay or manipulate).

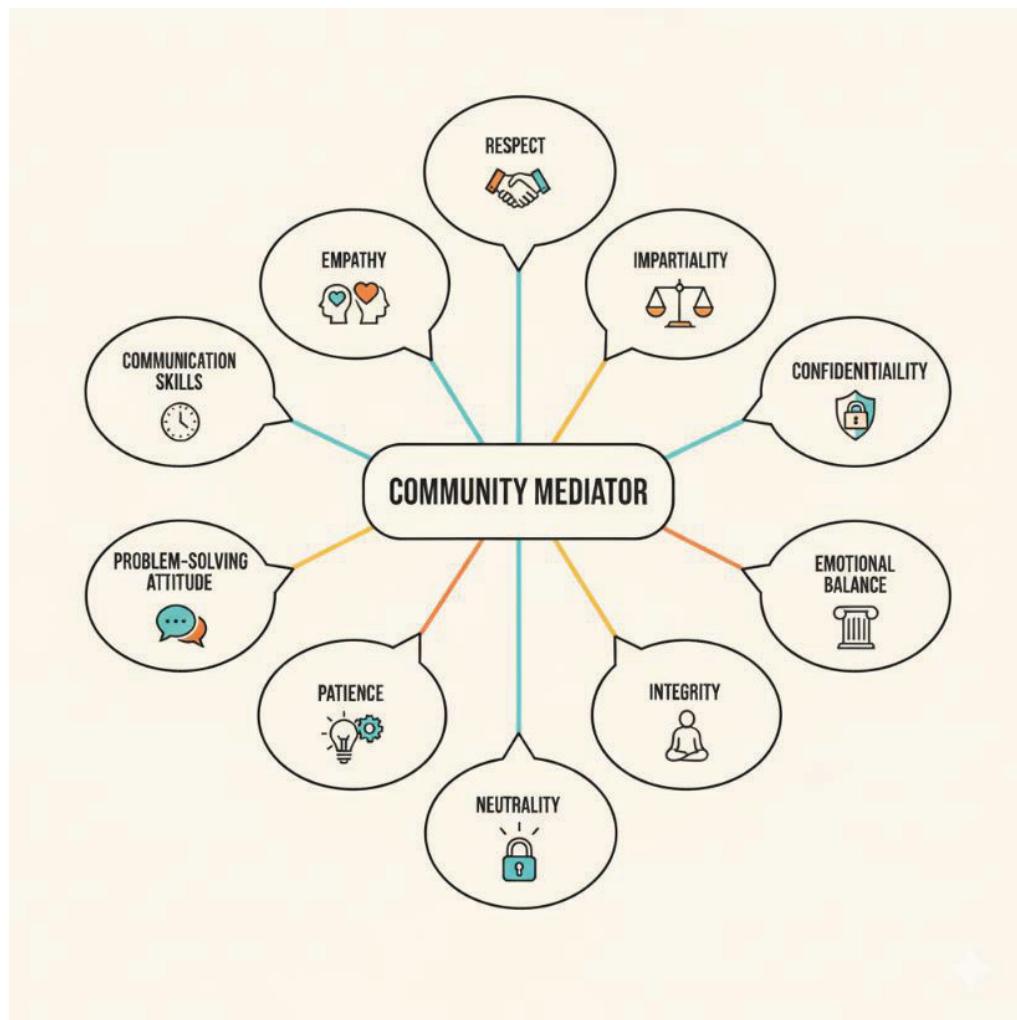
At every step, the mediator's job is to **remove barriers to dialogue** and create a safe space for constructive problem-solving



6.3. Essential Qualities of a Community Mediator

Community mediators are effective not because of authority but because of the qualities they bring to the table.

- **Neutrality and Impartiality** – treating all sides equally, in words, time, and gestures.
- **Patience** – allowing people to speak fully, even if they repeat or wander.
- **Respect** – valuing every person's dignity, regardless of background or identity.
- **Confidentiality** – keeping all discussions private; trust depends on it.
- **Good Communication Skills** – listening actively, asking neutral questions, summarizing clearly and speaking calmly.
- **Emotional Balance** – staying calm even when others are angry or disrespectful.
- **Problem-Solving Attitude** – focusing on solutions, not blame.
- **Empathy** – understanding feelings and perspectives without taking sides.
- **Integrity** – being honest, transparent, and beyond reproach.



6.4. Boundaries of a Community Mediator's Role

Community mediators must clearly understand what they should and should not do.

What They Should Do:

- Keep the process fair and respectful.
- Guide communication and encourage dialogue.
- Help parties explore and agree on their self-created solutions.
- Stop disrespectful or aggressive behaviour during sessions.

What They Should Not Do:

- Act like a judge (giving verdicts).
- Act like a lawyer (offering legal advice).
- Force their own solutions on parties.
- Share private discussions with outsiders.
- Take up non-mediable disputes like serious crimes or safety issues—these must be referred to the appropriate Authorities.

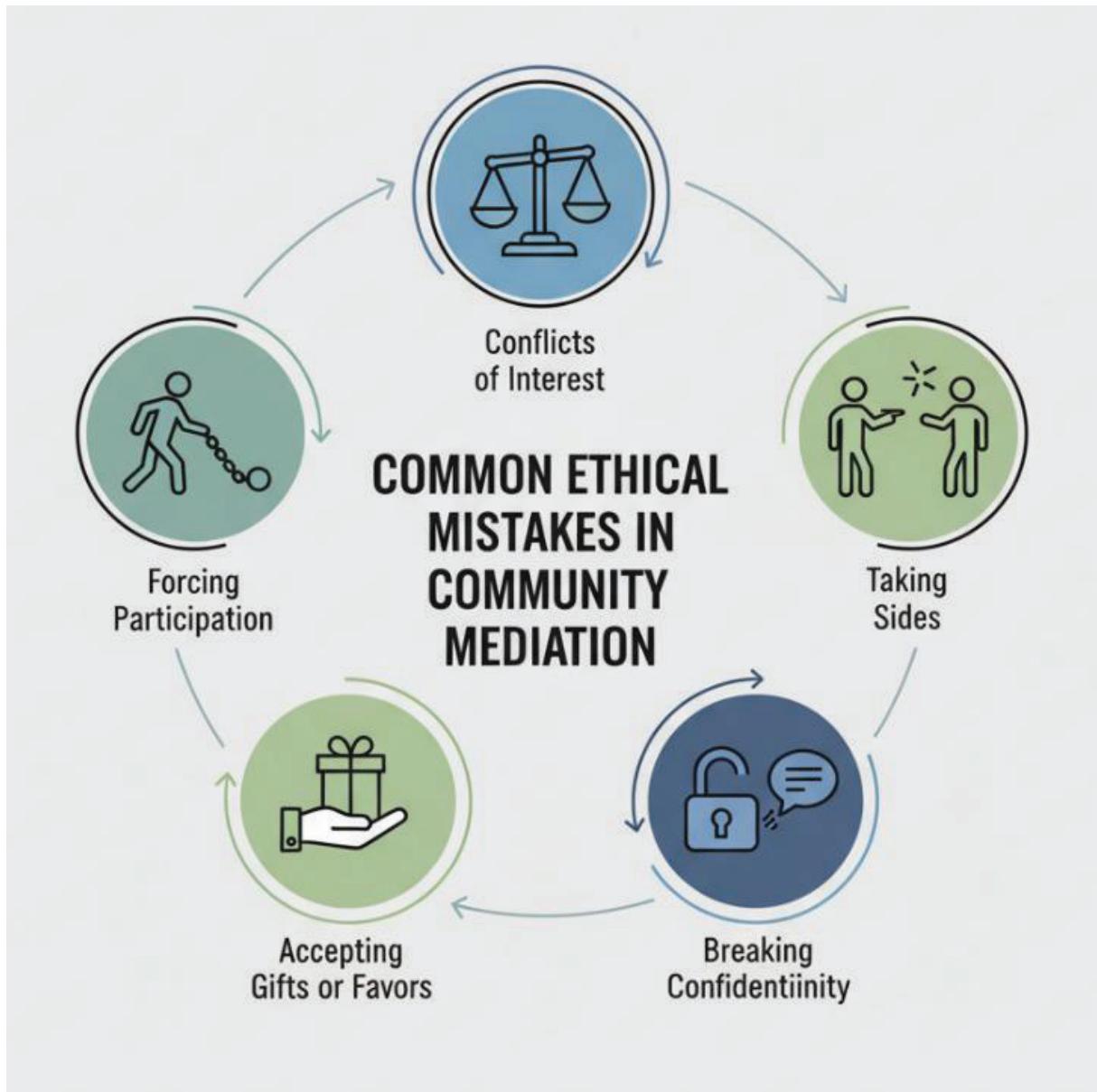
By staying within these boundaries, community mediators build trust and protect the dignity of all involved. These factors encourage creating options and formulating solutions.

6.5. Common Ethical Mistakes in Community Mediation

Community mediators must uphold **high ethical standards**:

- **Avoid conflicts of interest** – do not mediate where you have personal stakes.
- **Do not take sides** – avoid favouritism, even in tone or body language.
- **Do not accept gifts or favours** – remain free from influence.
- **Maintain confidentiality** – never gossip about what was said.
- **Promote voluntary participation** – parties must never feel pressured.

Common mistakes include showing bias, giving legal advice, imposing solutions or disrespecting parties. These weaken trust in both the mediator and the process.

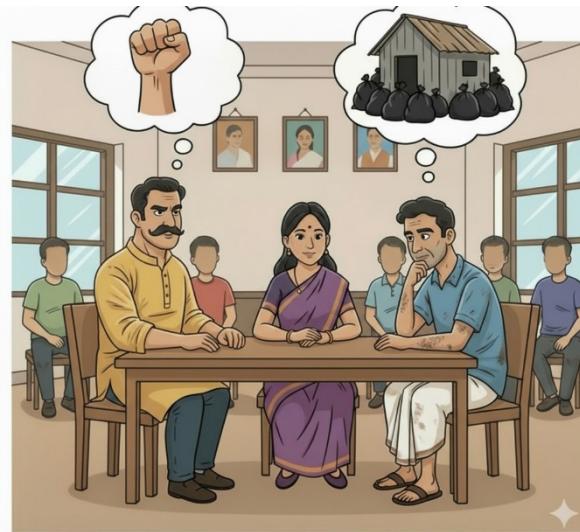


Summary

The community mediator is at the heart of the mediation process. They are not judges or lawyers but neutral facilitators who create safe spaces for dialogue. Their qualities—neutrality, patience, respect, confidentiality and balance—make them trustworthy.

By respecting boundaries, avoiding ethical mistakes, and acting as role models, community mediators strengthen trust within their neighbourhood. Done well, community mediation does more than resolve disputes neighbourhoods—it builds dignity, harmony and long-lasting peace in the society.

Engaging Activity



Scenario: You are a community Mediator and with you are two neighbours, a powerful shopkeeper and a quiet daily-waged labourer are opposed. The labourer claims that garbage from the shopkeeper is spilling on or nearest to his house and is causing a public health problem. Yet, at the mediation session the labourer only gives the shopkeeper brief eye contact, speaks quite softly (e.g. “Okay I will adjust”), and does not look angry or upset. The shopkeeper, on the other hand, confidently exclaims repeatedly “he’s exaggerating!”

Task: As the Mediator, identify the power imbalance and act as the pacifier, and provide an equal platform for the parties.

POINT TO REMEMBER

Community mediation is like a bridge.

Goal: Understanding the Role and Duties of the Community Mediator

Chapter 7

Cultural Sensitivity & Bias in Mediation

Mediation does not occur in a vacuum. It takes place in real communities where people have identities, histories, beliefs, and social locations. In India, more than one person is often involved in disputes; culture is also invariably involved and possibly many facets of culture like caste, religion, gender and age play their respective roles.

For a mediator, this means that success is not just about following the process but also about being **culturally sensitive and free from bias**. If the parties come to think the mediator is biased because of their caste, religion, gender or age they will not accept the process. When mediators are culturally aware, respectful and sensible, they can build bridges over profound social divides and possibly bring real harmony.

Mapping of the Chapter

- *Understanding cultural sensitivity in mediation.*
- *Caste, religion, gender, and age dynamics in disputes.*
- *Avoiding unconscious bias.*
- *Building trust across social groups.*
- *Practicing culturally respectful facilitation.*
- *Cross cultural Dimension in community mediation*

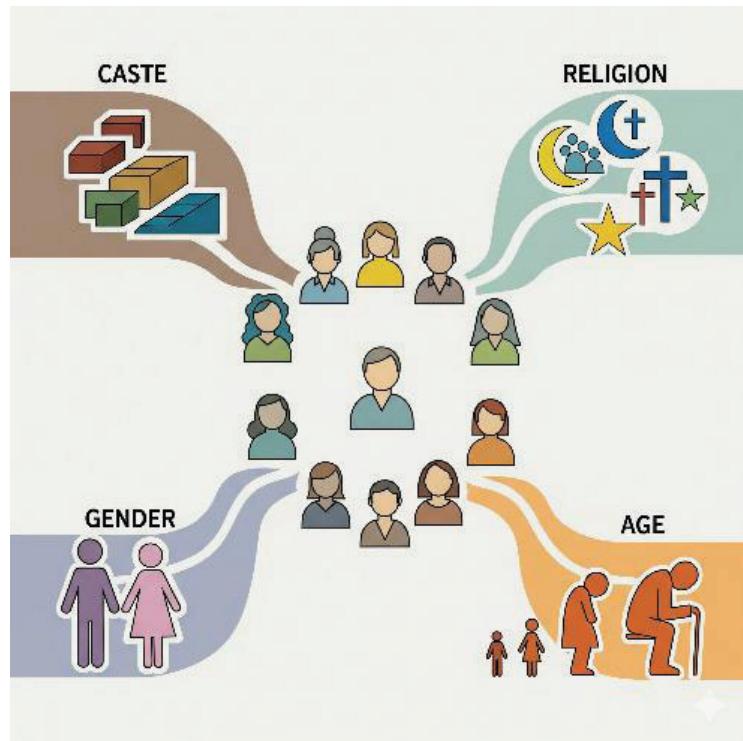
7.1. Understanding Cultural Sensitivity in Mediation

Cultural sensitivity means 'knowing' the values, traditions and differences that influence human behaviour and respectfully applying them during mediation.

- In one community, speaking loudly may be viewed as being honest, and in another, it may be viewed as disrespectful.
- In one family, elders may not allow others to speak, and in another family, younger members may speak freely and in some communities, women are not allowed to express their views.
- For some people, maintaining eye contact shows respect, and for others, avoiding eye contact shows respect.

A culturally sensitive mediator identifies these behaviours and applies processes according to the variations without compromising justice or neutrality.

7.2. Caste, Religion, Gender, and Age Dynamics



(a) Caste Dynamics

Caste remains one of the strongest social factors in Indian communities. Disputes may arise within castes or between castes, and power imbalances are quite common.

Challenges:

- A party belonging to weaker parties might be relented to speak freely in front of higher-caste parties.
- Higher caste parties might refuse to collaborate with lower-caste.
- Social pressure may force parties to accept unfair outcomes.
- A mediator from a dominant caste may be seen as biased even if they try their best to be neutral.

Mediator's role:

- Ensure equal respect and voice for all, regardless of caste.
- Remind parties that mediation is based on fairness, not social hierarchy.
- Be aware of subtle discrimination, such as seating arrangements or forms of address.

(b) Religion Dynamics

India is home to many religions. Religious identity can influence disputes in families, neighbourhoods, and communities.

Challenges:

- Religious practices may clash (e.g., use of loudspeakers, timings of festivals, shared spaces).
- Prejudice or stereotypes may make trust difficult.
- Mixed-faith marriages or inter-religious business partnerships may face unique disputes.

Mediator's role:

- Show respect for all religions and avoid comments or gestures that favour one faith.
- Acknowledge the role of religious practices if they are relevant, but keep focus on the dispute.
- If needed, allow parties to include religious leaders, provided both sides agree.

(c) Gender Dynamics

Gender often shapes how people behave and are treated in mediation. Women, especially in rural areas, may face pressure to remain silent.

Challenges:

- Women may hesitate to speak openly in front of men.
- Men may dismiss or interrupt women's voices.
- Gender stereotypes may lead to unfair settlements (e.g., assuming women should give up property rights).

Mediator's role:

- Give equal speaking time to women and men.
- Intervene gently if one party dominates unfairly.
- Be aware of the risks in cases of domestic violence—safety comes before mediation.
- Encourage women to voice their concerns without fear.

(d) Age Dynamics

Age brings authority in many Indian communities. Elders are often respected, but sometimes their dominance can silence younger voices.

Challenges:

- Younger parties may not express their needs openly in front of elders.
- Elders may expect their word to be final.
- Generational differences (e.g., education, lifestyle, technology) may fuel disputes.

Mediator's role:

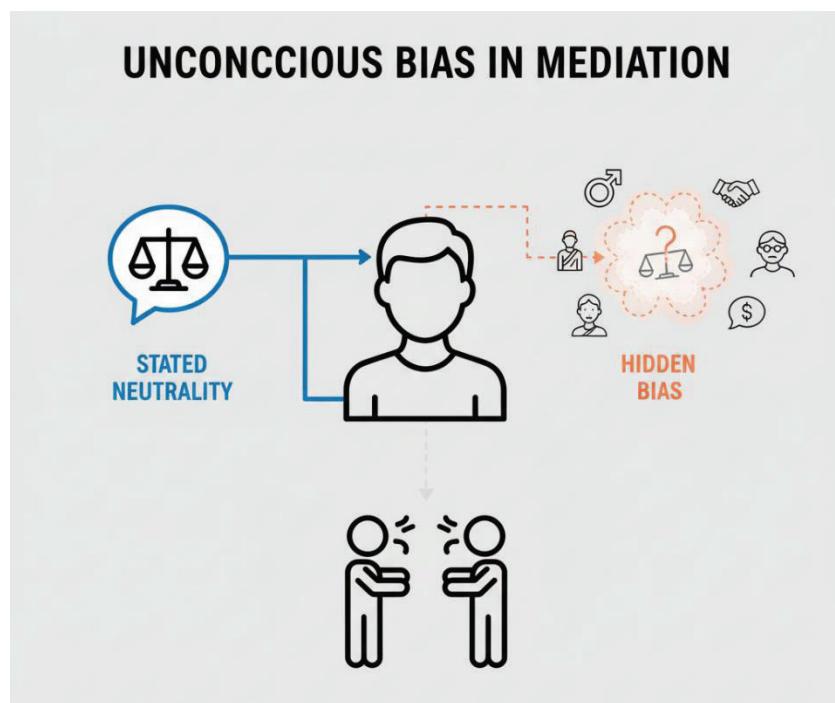
- Show respect to elders while ensuring younger parties are also heard.
- Balance authority with fairness; remind all that mediation is about equal voice.
- Encourage dialogue across generations, focusing on common goals (e.g., family unity, community peace).

7.3. Avoiding Unconscious Bias

Even well-meaning mediators can have **unconscious bias**, hidden preferences or prejudices that affect behaviour without awareness.

(a) Examples of Unconscious Bias in Mediation

- Assuming men are more reliable than women.
- Giving more attention to someone from your own caste or religion.
- Believing elders are always right.
- Using language that favours one side, like “You poor thing” or “You must understand he is older.”



(b) How to Avoid Unconscious Bias

1. **Self-awareness** – Reflect on your own attitudes and upbringing.
2. **Equal treatment** – Give equal speaking time and equal respect.
3. **Check body language** – Do not sit closer to one party, smile more at one side, or make eye contact only with one person.

4. **Neutral language** – Avoid labels, assumptions, or sympathy for one side.
5. **Feedback** – After mediation, ask yourself: “Did I favour one side without realising?”

Being aware of unconscious bias is the first step toward avoiding it.

7.4. Building Trust Across Social Groups

Trust is the foundation of mediation. But when parties come from different castes, religions, genders, or age groups, trust may be very fragile.

(a) Principles for Building Trust

- **Respect for all identities** – Show genuine respect to every person, regardless of background.
- **Transparency** – Explain the process clearly so no one suspects hidden agendas.
- **Confidentiality** – Keep discussions private, which builds confidence.
- **Consistency** – Treat both parties equally in every action and word.

(b) Practical Steps

- Use neutral venues that are acceptable to both the sides.
- Address people with titles or names they prefer.
- Allow both sides to bring supporters if it helps them feel safe (but ensure they do not interfere).
- Acknowledge cultural practices (e.g., prayer breaks, seating customs) without letting them dominate fairness.

(c) Example

In a water-sharing dispute between two communities from different castes, the mediator begins by acknowledging both groups' need for water and their shared dependence. By focusing on common interests (water, farming, survival), the mediator reduces the sense of “us versus them.”

7.5. Culturally Respectful Facilitation

A mediator must balance two goals:

1. Respecting culture.
2. Ensuring fairness.

This means that the mediator should not reject cultural practices outrightly, but also should not allow them to create injustice.

(a) Showing Respect Without Compromise

- Allow traditional greetings, rituals, or ways of speaking at the start.
- Respect elders, but remind them mediation gives equal voice to all.
- Respect religious customs (like prayer times), but keep the session focused on the dispute.

(b) Language and Communication

- Use the local language or dialect whenever possible.
- Avoid technical or legal jargon.
- Be sensitive to words that may carry cultural or caste-based insults.

(c) Example of Respectful Facilitation

In a family property dispute, the eldest brother insists that as the senior male, he should decide. The mediator respectfully acknowledges his role, but explains:

"In mediation, every family member's voice is important. Your guidance is valuable, but we must also hear your sisters and younger brothers so that the solution works for everyone."

This approach respects the elders as well as maintains fairness.



7.6 Cross Cultural Dimensions in Community Mediation

Community mediation often involves people from different cultural and social backgrounds. Understanding cultural differences helps mediators build trust and avoid misunderstandings.

Communication styles vary greatly across regions, communities, and generations. For a community mediator, understanding these differences is essential for building trust and

ensuring meaningful dialogue. The concept of *high-context* and *low-context* communication helps explain how people express and interpret messages.

In high-context communication, much of the meaning is conveyed through tone, gestures, silence, and shared understanding rather than direct words. Many Indian communities traditionally follow this approach, valuing politeness, respect, and harmony. People may avoid saying “no” directly to prevent disagreement or to show deference, especially toward elders or authority figures. Relationships and social cues often play a greater role than spoken language.

In contrast, low-context communication emphasizes directness and clarity. Every detail is explicitly stated to avoid confusion or misinterpretation. This style is increasingly common in professional, legal, and urban settings in India, where precision and documentation are valued.

A community mediator should listen attentively for unspoken cues and emotions that may reveal hidden concerns, while also ensuring that discussions and agreements are clearly expressed and mutually understood. By adapting to both communication styles, mediators can bridge cultural gaps, promote understanding, and foster trust between parties.



Summary

Cultural sensitivity is not about knowing every custom or tradition. It is about showing **respect, fairness, and awareness** in a way that makes all parties feel safe and valued.

By understanding caste, religion, gender, and age dynamics, avoiding unconscious bias, building trust across groups, and facilitating with cultural respect, mediators can overcome barriers that often divide communities. In a diverse society like India, a culturally sensitive mediator is not just resolving disputes—he is helping build a more inclusive, respectful, and peaceful community.

Engaging Activity



Scenario:

Priya gets a job offer to teach at a nearby school. She is excited to use her education and help the family financially. However, her mother-in-law, Shanti Devi, forbids it. She believes a woman's place is in the home and a working daughter-in-law will bring shame to the family's reputation. Priya feels her aspirations are being crushed, while Shanti Devi feels her traditional values and authority are being disrespected.

Task: Understand the bias in the scenario and navigate through the situation

Goal: Understanding inherent biasness in everyday conflict

POINT TO REMEMBER

When mediators are culturally aware, respectful and sensible, they can build bridges over profound social divides and possibly bring real harmony.

Chapter 8

Ethics, Law & Referrals

Mediation is not just about good communication or cultural sensitivity. It also operates within a framework of ethics and law. Mediators must know when they can handle a dispute, when they should refer it elsewhere, and how to conduct themselves in a way that respects the law and protects the dignity of the parties.

In India, community mediation is supported by legal provisions and by institutions such as NALSA, SLSA, and DLSA. At the same time, mediators must uphold high ethical standards, particularly around confidentiality, consent, and record-keeping.

Mapping of the Chapter

- *When to Mediate and When to Refer*
- *Legal Framework for Mediation in India*
- *Ethical Responsibilities of Mediators*
- *Balancing Ethics and Law in Practice*

8.1. When to Mediate and When to Refer

Not every dispute can or should be mediated. A mediator's first ethical responsibility is to assess whether mediation is appropriate to the dispute at hand or some other process is more efficacious.

(a) When to Mediate

Mediation is suitable when:

- The dispute involves issues that can be negotiated (family, land, water, neighbourhood, small commercial disputes).
- Both parties are willing to talk and try for a solution.
- The matter involves relationships that need to be preserved (family, neighbours, workplace, community).
- The conflict is not about a serious crime but about civil or community issues.

(b) When to Refer

The mediator must refer the case to courts, police, or authorities if:

- The dispute involves **serious crimes** (murder, rape, assault, theft).
- There are issues of **domestic violence** where safety is at risk.
- One party is clearly **incapable of giving free consent** (due to intimidation, mental incapacity, or severe power imbalance).

- There is a clear violation of law that requires judicial intervention.
- The dispute is already pending before a court and cannot be withdrawn for mediation.

Referring is not a failure; it is part of ethical mediation. It ensures that parties get the proper help for their particular situation.

8.2. Legal Framework for Mediation in India

The enactment of the **Mediation Act, 2023** marks a watershed moment in the legal landscape of dispute resolution in India. For the first time, community mediation has received formal statutory recognition, establishing a structured, nationwide framework to address disputes while promoting harmony. The Act integrates and builds upon older laws, including the **Legal Services Authorities Act, 1987** and **Section 89 of the Code of Civil Procedure, 1908**, creating a cohesive legal ecosystem for mediation.

a. The Mediation Act, 2023: A Comprehensive Foundation

The Act's primary objectives are to:

- Promote mediation as a preferred method of dispute resolution.
- Establish the **Mediation Council of India** to register mediators and set professional standards.
- Provide a legal framework for different types of mediation, including commercial, online, and **community mediation**.

By creating statutory recognition and structured procedures, the Act elevates mediation from an informal practice to a legally supported process.

b. Community Mediation under the Act (Chapter X)

The Mediation Act, 2023, dedicates **Chapter X** specifically to community mediation, emphasizing its role in maintaining **peace, harmony, and social cohesion** at the local level.

Objective (Section 43)

Community mediation is designed to resolve disputes that are “likely to affect peace, harmony, and tranquillity amongst the residents or families of any area or locality.”

- Requires the **mutual consent of the parties** involved.
- Focused on **restoring and maintaining community harmony** rather than legal enforcement.

How to Initiate

Applications for community mediation can be submitted to:

- The **District Legal Services Authority (DLSA)** or other authorities constituted under the **Legal Services Authorities Act, 1987**, or

- In areas without such authorities, the **District Magistrate or Sub-Divisional Magistrate**.

This ensures that mediation is accessible to communities nationwide, even in areas lacking formal legal infrastructure.

c. Panel of Mediators (Section 43)

Community disputes are resolved by a **panel of three mediators** rather than a single individual. Panels may include:

- Respected persons of **standing and integrity** in the community.
- Recognized **local leaders or social workers**.
- Representatives of **Resident Welfare Associations (RWAs)**.

d. Process and Outcome (Section 44)

- The mediators devise **procedures suited to the dispute**, fostering an amicable resolution.
- If settlement is reached:
 - It is **documented in writing** and signed by the parties and mediators.
 - Settlement agreements are **not enforceable as a court decree**; their purpose is to **formalize understanding and restore community harmony**.
- If settlement fails, a **non-settlement report** is submitted to the relevant Authority.

e. Integration with Existing Legal Structures

The Mediation Act, 2023, complements existing frameworks rather than replacing them:

(i) Legal Services Authorities Act, 1987 (LSA Act)

- **NALSA (National Legal Services Authority)**: Policy-making, mediator registration, promotion of mediation.
- **SLSA (State Legal Services Authority)**: Implementation at the state level, training, and awareness programs.
- **DLSA (District Legal Services Authority)**: Primary institution for receiving mediation applications and constituting mediator panels.

Community mediation relies heavily on this infrastructure for **grassroots implementation**.

(ii) Section 89 of the Code of Civil Procedure (CPC), 1908

- Courts can **refer disputes for ADR**, including mediation.
- The Mediation Act strengthens this legal backing, ensuring that **court-referred and private mediation** are both **legally recognized and procedurally structured**.

This ensures a seamless integration between community-level mediation and judicial mechanisms.



f. Significance for Community Mediators

The Mediation Act, 2023 provides mediators with:

- **Legal legitimacy:** Community mediation is formally recognized under statutory law.
- **Structured procedures:** Clear guidance on initiating, conducting, and concluding mediation.
- **Institutional support:** Leveraging DLSAs, SLSAs, and NALSA ensures nationwide reach and consistency.

In essence, the Act transforms community mediation into a **credible, structured, and accessible process**, enabling communities to resolve disputes peacefully while reinforcing social cohesion.

8.3. Ethical Responsibilities of Mediators

(a) Confidentiality

Whatever is said in mediation must remain private.

- Parties will not speak freely unless they trust that their words will not be shared outside.
- Mediators must not discuss details with outsiders, community members, or even family.
- Records must be kept safe and limited to what is necessary.

(b) Consent

Mediation is voluntary.

- No one can be forced to mediate.
- Parties can exit the process at any time.
- Agreements must be signed only if both parties give **free, informed consent**.

If a party feels pressured, the agreement will not last. Mutual consent is the foundation of fairness.

(c) Record-Keeping

Mediators should keep records carefully but simply.

- Records should include basic details: names, date, subject of dispute, and outcome (agreement or no agreement).
- Do not record unnecessary personal details that may break confidentiality.
- Settlement agreements should be written clearly, signed by both parties and kept safe.

Proper record-keeping helps in:

- Avoiding misunderstandings later.
- Maintaining transparency.
- Reporting to Legal Services Authorities if required.

8.4. Balancing Ethics and Law in Practice

A community mediator works at the intersection of **ethics and law**. They must balance:

- The **human side** of mediation (empathy, fairness, cultural respect).
- The **legal side**, referring to appropriate matters, following procedures, and record-keeping.

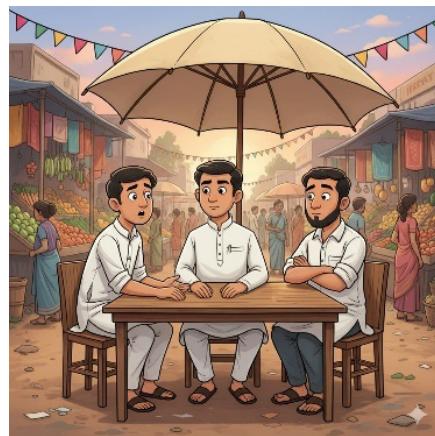
This balance ensures that mediation is not just effective but also legitimate and respected by both people and institutions.

Summary

Ethics and law are the twin pillars of mediation. Mediators must know when to mediate and when to refer, understand the legal framework (LSA Act, Section 89 CPC, and the role of NALSA/SLSA/DLSA), and follow ethical duties of confidentiality, consent, and careful record-keeping.

By following these principles, community mediators not only resolve disputes but also build trust in the justice delivery system, empower communities, and strengthen the rule of law. A mediator is not only a peace-builder but also a guardian of justice and ethics in their community.

Engaging Activity



Scenario: Two shopkeepers, Sunil and Rashid, are in a bitter dispute over the placement of their stalls in the weekly market. The mediator is from a nearby village and is seen as a neutral party. As the session begins and everyone introduces themselves, the mediator realises that one of the men, Sunil, is their distant cousin. They haven't seen each other in years, but the family connection is undeniable

Task: What will you do as the Mediator?

Goal: Understanding Ethical Dilemma

POINT TO REMEMBER

A mediator's first ethical responsibility is to assess whether mediation is appropriate to the dispute at hand or some other process is more efficacious.

Chapter 9

Settlement Agreement Drafting & Documentation

The end goal of mediation is not just dialogue, it is agreement. Once the parties have reached a solution that works for both of them, the mediator helps them put the same in writing. This written document is called a settlement agreement.

A settlement agreement is more than just a piece of paper. It is the proof of the parties' consent, the roadmap for their future behaviour, and the record that can prevent future misunderstandings. Drafting it carefully and clearly is one of the mediator's most important responsibilities.

Mapping of the Chapter

- *Purpose of a Settlement Agreement*
- *Essential Elements of a Settlement Agreement*
- *Facets of Drafting a Settlement Agreement*
- *Steps in Drafting*
- *Ethical Considerations in Drafting*
- *Sample Settlement Agreement*

9.1. Purpose of a Settlement Agreement

- **Record of consent:** It confirms that both parties have willingly agreed.
- **Clarity:** It avoids future confusion or arguments about what was decided.
- **Closure:** It gives both parties a sense of finality and peace.

9.2. Essential Elements of a Settlement Agreement

When drafting a settlement agreement, the following elements must be included:

(a) Settlement Terms

- **Specificity:** Clearly define the solution, including dates, amounts, responsibilities, and timelines.
- **Measurability:** Avoid vague terms; use precise language to describe obligations.

(b) Consent

- **Voluntary Agreement:** Explicitly state that both parties have agreed without any coercion.

- **Neutral Language:** Ensure that the wording is impartial, reflecting mutual understanding.

(c) Language

- Use **simple, clear language** that both parties understand.
- Avoid technical or legal jargon, especially in community mediation.
- If parties are more comfortable in the local language, draft the agreement in that language.

(d) Points of Dispute and Settlement Terms

- State briefly, in neutral and blameless language, what the dispute was about.
- Then, set out how each point of dispute has been settled.

9.3. Facets of Drafting a Settlement Agreement

Drafting is not just writing—it is a process of careful thinking and structuring. Mediators must keep the following in mind:

(a) Neutrality in Wording

The agreement should not make one party look like a winner and the other like a loser. It should reflect **mutual understanding**.

- **Biased:** “*Party A admitted guilt and agreed to pay damages.*”
- **Neutral:** “*Party A and Party B agreed that Party A will pay ₹20,000 to Party B to resolve the matter fully.*”

(b) Completeness: Address all points of dispute to prevent future conflicts.

(c) Clarity and Specificity: Use exact dates, amounts, and actions instead of vague terms like “soon” or “reasonable.”.

(d) Future-Oriented: Agreements should not just settle the past but also create a workable future relationship.

(e) Legality: Ensure the terms do not violate any laws or infringe upon legal rights.

(f) Confidentiality Clause: a statement can be included confirming that the discussions remain confidential and only the settlement terms will be recorded.

(g) Signatures and Authentication

- Agreement must be signed by both parties and the mediator.
- If organized under a Legal Services Authority, it may also be authenticated by them.

9.4. Steps in Drafting

1. **Summarise discussions** – Identify points of agreement during the session.
2. **Confirm consent** – Ask both parties again if they agree to record the settlement.
3. **Draft in simple language** – Write clearly, step by step.
4. **Read aloud** – Read the draft to both parties in their language.
5. **Check accuracy** – Ask if anything is missed or unclear.
6. **Signatures** – Both parties and mediator sign.
7. **Copies** – Give copies to both parties; keep one for records.

9.5. Ethical Considerations in Drafting

- **Impartiality:** Do not insert the mediator's opinion, record only what the parties agreed.
- **Voluntary Consent:** Do not pressure parties to sign.
- **Clarity and Consensus:** Do not leave the agreement vague.
- **Confidentiality:** Always ensure discussions remain confidential.

Summary

Drafting a settlement agreement is the final, crucial step of mediation. It must be clear, complete, neutral, and based on genuine consent. Good drafting prevents future disputes and gives confidence to the parties that their efforts in mediation have resulted in a reliable outcome. The language of the agreement must be that which is comprehended by the parties on both the sides.

Mediators should remember that their role is not just to write but to ensure fairness, clarity, and respect for both parties in the written record.

Engaging Activity



Scenario Update: After a long and emotional session, the anger between Ramu and Sheela has finally given way to understanding. Ramu now sees the genuine difficulty Sheela faces with her goats, and Sheela now truly understands the frustration and disrespect Ramu felt. They have both acknowledged the hurt caused by the goats, the public complaint, and the loss of their friendship.

They have reached a general verbal agreement. They want to work together to fix the fence, restart their friendly exchange of fruit and milk, and, most importantly, promise to speak directly to each other if a problem ever arises again. The tense silence has been replaced by cautious optimism, but the details of their resolution are still vague and unwritten.

Task: Draft the Settlement Agreement

Goal: Understanding the elements in the settlement agreement

POINT TO REMEMBER

Drafting a settlement agreement is a process that calls for thoughtful reflection and careful structuring. The agreement must be clear, comprehensive, neutral, and grounded in the genuine consent of all parties. A well-drafted settlement agreement becomes a symbol of peace and trust in the community.

Annexure 1

Sample Settlement Agreement

Below is a simple **model settlement agreement** suitable for community mediation.

COMMUNITY MEDIATION CENTRE, XYZ DISTRICT

Date: 02.09.2025

Mediation Case No.: 12/2025

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into on this **2nd day of September, 2025**, at the Community Mediation Centre, XYZ District, pursuant to the Mediation Act, 2023.

BETWEEN

Mr. X (Aadhaar No.: XXXX XXXX), Full address (Hereinafter referred to as the *First Party*)

AND

Mr. Y (Aadhaar No.: XXXX XXXX), Full address (Hereinafter referred to as the *Second Party*)

(First Party and Second Party are collectively referred to as the *Parties*

WHEREAS

1. A dispute arose between the Parties regarding repayment of a loan of **₹20,000/- (Rupees Twenty Thousand Only)** advanced by the Second Party to the First Party on 01.07.2024.
2. The Parties voluntarily approached the Community Mediation Centre, XYZ District, for resolution of their dispute through mediation.
3. The Parties voluntarily participated in the mediation process, and with the assistance of the Mediator, have amicably resolved their dispute.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

- (a) The First Party agrees to pay a total sum of **₹20,000/- (Rupees Twenty Thousand Only)** to the Second Party in full and final settlement of the aforesaid dispute.
- (b) The payment shall be made in the following manner:
 - **₹10,000/-** on or before **15.10.2025**; and
 - **₹10,000/-** on or before **15.11.2025**.

- (c) Upon receipt of the total settlement amount of **₹20,000/-**, the Second Party shall have no further claim, demand, or action against the First Party in respect of the aforesaid loan.
- (d) Both Parties agree that this Settlement Agreement has been arrived at **voluntarily, without any force, pressure, coercion, or undue influence**, and after fully understanding its terms.
- (e) The Parties undertake to faithfully comply with the terms of this Settlement Agreement.
- (f) The Parties further agree that this Agreement shall be **for the purpose of maintaining the peace, harmony and tranquillity amongst the residents or families of any area** or locality but shall not be enforceable as a judgment or decree of a civil court.
- (g) The Parties also agree that in the event of any future differences, they will first make sincere efforts to resolve the same through dialogue and, if necessary, through mediation, before approaching any court or authority.

CONFIDENTIALITY

The Parties acknowledge that all statements, discussions, and proposals made during the mediation sessions shall remain **confidential** in terms of Section 22 of the Mediation Act, 2023. Only the present Settlement Agreement shall form the record of the outcome.

SIGNATURES

First **Party:** _____
Mr. X

Second **Party:** _____
Mr. Y

Mediator: _____
(Name & Signature)

Witnesses (if any): _____

Annexure 2

Sample Problems for Role Play

Problem 1 : The Bounding Boundary

In Rampur village, two farming families, Ramu's and Shivam's, have been side by side for over 20 years. Their fields touch, with stone markers dividing the two of them. The village recently finished its annual ploughing, and Ramu noted that the stone markers were moved, making his land nearly one bigha smaller. Ramu publicly accused Shivam of cheating him, grabbing land. Shivam denied stealing any land, claiming the stones had always been where they were placed by the original farmer. As their quarrel turned into yelling matches, the two families now refuse to attend each other's social occasions. While both families have been embarrassed to yell at one another publicly, there are other farmers who are scared the fight will be longer than yelling, since the farmers rely on each other to be cordial with nightly markets or share irrigation duties. Some villagers who repair small vehicles or buy equipment behind the bookshop whisper to one another that this is not really about land; it has something to do with either man's pride or an old family battle. Ramu said the issue has gone too long without resolution and he is considering going to the Tehsildar. Shivam says he is ready to defend himself but does not want outsiders getting into family affairs that have nothing to do with those outside of the village. The panchayat has asked a community mediation panel to step in, fearing the dispute will disrupt peace.

Confidential Information:

- **Ramu:** He fears losing the land will reduce his son's inheritance. He also suspects Shivam is taking revenge for an old unpaid loan.
- **Shivam:** He secretly knows the boundary was never properly marked but doesn't want to admit it. He feels Ramu is jealous of his success and trying to ruin his reputation.

Problem 2 : The Well in Wellness

Lakhan, a hardworking farmer, lived on the outskirts of a city. Farming was his main source of income, but in recent years, a lack of water had greatly reduced his crop yields. After facing many years of drought, Lakhan decided to dig his own well last year. He used most of his savings to build it because the old community well had become unreliable. When he first shared his plan, the villagers appreciated his hard work and praised his determination. However, this summer the community well completely dried up. Many families in the village began requesting Lakhan let them draw water from his private well. Lakhan refused, saying that he had spent his own money to build it and could not allow everyone to use it. This angered the villagers. They argued that water is a basic need and should be shared by everyone, especially in a small community. They felt Lakhan was being selfish by keeping the well for himself. The disagreement soon turned into heated

arguments near the well. Some young men even threatened to take water by force, while the elders feared that violence could break out at any time. Even women became involved in the quarrels, showing how serious the issue had become. Lakhan feels that he is being unfairly pressured to share what he built with his hard-earned money. He has even said that if the villagers try to control how his well is used, he will leave the village after closing the well. The villagers, on the other hand, believe Lakhan has gone against their long-standing tradition of sharing water and helping one another in times of need. The dispute has now divided the entire community, creating tension and mistrust among neighbours..

Confidential Information:

- **Lakhan:** He worries the well will dry up if everyone uses it. He also secretly hopes to earn some income by charging small fees for water.
- **Villagers' Group:** Some youths plan to vandalize the well if Lakhan does not agree. Others are willing to negotiate a contribution system but fear being called weak.

Problem 3 : The Dual Celebrations

During a heavy storm, several roof tiles from Meera's house were blown off by strong winds and landed on her neighbour Gopal's roof, cracking some of his tiles. Gopal was upset and immediately demanded that Meera pay for the damage, insisting that she should have taken precautions to secure her roof earlier. Meera, however, refused, arguing that the storm was an act of nature and beyond her control, and that she could not be held responsible for the unexpected damage. This disagreement, which might have been resolved calmly, quickly escalated into a personal conflict. In anger, Gopal blocked Meera's Lane with his bullock cart, making it difficult for her family to fetch water and carry out daily activities. Both families have exchanged harsh words publicly, creating significant tension in the village. Their once-friendly relationship has deteriorated; Meera and Gopal were once close friends who often collaborated on community events and celebrations. Now, even their children have stopped playing together, reflecting the growing rift between the families. The villagers, who have always admired the harmony between these neighbours, are concerned that the conflict is harming not just the families involved but the wider community as well. The matter has taken on emotional and social dimensions beyond the physical damage itself, affecting relationships, daily routines, and community spirit. Recognising the need to restore peace and prevent the situation from dividing the village permanently, the local community has arranged for mediation. The goal of the mediation is to help both Meera and Gopal communicate their concerns calmly, understand each other's perspective, and find a solution that addresses the damage while repairing their relationship and harmony within the village.

Confidential Information:

- **Meera:** She knows her roof was weak, but didn't have money to repair it before the storm. She's worried Gopal will shame her publicly about her financial state.
- **Gopal:** His real frustration is not just about the roof; he's angry because Meera recently refused to lend him her water tank during a drought.

Problem 4 : Brick in Broadway

Villagers have relied on a narrow footpath that crosses the land of elder Pratap to access the fields promptly for generations. Elder Pratap recently blocked the path with bricks, claiming it is part of his private property. As a result, the youth in the village are furious, saying they depend on the path to engage in daily work and for an upcoming kabaddi tournament. The youth accuse Pratap of being stubborn and selfish. Pratap says he has let people trespass on his land for too long and was only claiming his rights. Villagers are therefore divided: some support the youth while it is said, for their own safety, other people respect Pratap's seniority. Arguments have become increasingly loud in the last few days people don't even greet each other in the market now. It is clear the dispute has grown from merely an issue of land and access to a conflict between the "younger generation and the authority of elders". Mediation has been set up to prevent this from becoming a violent dispute or a permanent divide.

Confidential Information:

- **Youth Group:** Want to use the path mainly for the kabaddi event but also want to show they won't always bow to elders' authority.
- **Pratap (Elder):** Blocked the path more to punish the youth for mocking him in public last month than for genuine land concerns.

Problem 5 : The Daily overdue

At the village brick kiln, daily wage labourers, led by Shanti, claim that Mahesh, the owner, is not paying them fairly. They assert that they worked longer hours because it was the busy season, but would not get paid fully. Mahesh counterclaims that he has paid them fairly, and that they are being ungrateful. Tension boiled over when the workers stopped coming in and would not produce. Mahesh responded to this by stating that he would hire workers to come in from the nearby town, and this made matters worse for the villagers. The families of the workers are starving, because they are without money, while Mahesh worries he will lose customers and contracts for the business. Other villagers worry that the brick kiln will shut down, because it is one of the few sources of employment in the village. There is mounting pressure and urgency on both sides, and both are too stubborn to give way, and the dispute has now been brought in for mediation.

Confidential Information:

- **Workers' Group:** They know Mahesh gave small advances earlier but fear if they admit it, he will deduct even more. Their main goal is job security rather than just money.
- **Mahesh (Owner):** He is under financial pressure from a contractor and cannot afford to raise wages much. He secretly fears if workers succeed, other villages will demand the same.

Problem 6 : The Bells for Periods

In Gopalpur village, a primary school is adjacent to an old temple. The temple committee rings the large bell and uses loudspeakers for bhajans every morning, while the students are in class. The teacher, and some of the parents, complained that the noise distracts the children from study. The temple committee insists that these rituals are centuries-old traditions and cannot be stopped or modified. Things escalated when the teacher wrote to the Block Education Officer and threatened to bring in government authorities. Temple leaders said they were insulted and the teacher disrespected their beliefs. Now the villagers are polarized - some support the school and the children, while others support the temple rituals. Heated arguments have already erupted between members of the village at village meetings and there are concerns the temperature of the dispute may reach a cultural boiling point. Mediation has been requested to gain a mediated understanding of how to balance education and religious practices and not hurt feelings.

Confidential Information:

- **Schoolteacher/Parents:** The teacher secretly wants recognition as a reformer who modernized village education and is pushing harder than parents actually demand.
- **Temple Committee:** They are actually open to reducing loudspeaker volume but do not want to admit it publicly, fearing loss of authority.

Problem 7 : The Cash Cow Conundrum

Last week, Shobha's cow wandered into her neighbour Mohan's field of paddy and damaged some rows of the crop. Mohan requested immediate compensation for the damaged crop but Shobha said it was an accident and offered to pay only half of what Mohan requested. Mohan felt wronged and reacted angrily, shouting at Shobha in front of the other villagers. Shobha felt embarrassed by the public insult and then refused to pay anything more. Ever since that day, Mohan has been hindering Shobha's access to the common irrigation channel which has heightened tensions. Other villagers in the community are worried that this conflict will escalate as Shobha and Mohan's families are often influential figures on the panchayat. The situation has quickly escalated from damage to crops into a family difference of pride, respect, and retaliation. After pressure, both families came to an agreement to attend mediation before the conflict escalates into violence.

Confidential Information:

- **Mohan:** More than the money, he wants Shobha to publicly admit fault so he regains his dignity.
- **Shobha:** She is struggling financially after a medical expense and genuinely cannot pay full compensation. She does not want the village to know about her money troubles.

Problem 8 : The Marriage Feast

In Keshavpur, two families are having a dispute over wedding arrangements. Raju's son is getting married on the same day as Kamla's daughter next door. Both families booked a community hall for the wedding, but because of a clerical mix-up, only one of the dates was confirmed. Now both families are asserting their right to the hall that day. Raju claims he booked first and has already sent invitations, while Kamla says her function cannot be postponed because the groom's family is travelling from afar. The villagers are caught in the middle while both families attempt to recruit villagers to support them and get the needed help. Rumours have already started to spread in and around the village, and some relatives from outside the village have entered into the situation. The issue now is more than logistics; it is about honour and dignity of both family's social position. Mediation is necessary and required to settle the matter without embarrassing families and to maintain community ties.

Confidential Information:

- **Raju:** He fears if he shifts the wedding, people will say his family is weak and dishonoured. He is secretly willing to consider sharing the hall but won't say it first.
- **Kamla:** She cannot afford to lose face with her daughter's in-laws. Privately, she worries the groom's family might call off the marriage if they sense chaos.

Problem 9 : The Money Madness

Recently, the village panchayat asked households for donations to repair the community water tank. Rajendra, the treasurer of the panchayat, managed funds for the repairs. Sunita, a prominent and vocal villager, charged that Rajendra pocketed some money since the tank repairs were incomplete and poorly done. Rajendra angrily denied it, arguing that every rupee was properly spent and Sunita was slandering his name for personal reasons. Both sides got heated at a public meeting, with supporters of both shouting and fighting. Some villagers began to question whether their contributions would be safe, while others of Rajendra's group, said Sunita was just playing politics. The situation is now threatening to disrupt any work the panchayat does going forward with villagers refusing to contribute to other joint projects. Mediation has been requested to maintain the credibility of the village leadership moving forward.

Confidential Information:

- **Rajendra (Treasurer):** He did use some money to pay off a personal debt, hoping to replace it later. He fears exposure will destroy his public image.
- **Sunita:** She wants to become the next panchayat leader and sees this dispute as her chance, but she also worries if she pushes too hard, people may call her a troublemaker.

Problem 10 : The Missing Mangoes

During summer, mango trees in the village are heavy with fruit, and everybody waits for the harvest. Rakesh has one of the largest mango orchards in the village. Last week, he caught Hari's children plucking mangoes from his trees. Rakesh was furious, and he accused Hari of sending his children to plunder the mangoes. Hari denied it, claiming climbing trees is just boys being boys, and that Rakesh was being too dramatic. After that, Rakesh proceeded to scold Hari publicly in front of the other villagers, humiliating him in the process. In return, Hari stated to people that Rakesh is a hoarder and would never share any of his mangoes with the poor. The entire matter has now escalated to a debate about self-interest versus sharing with other members of the community. People are taking both sides of the debate, with some siding with Rakesh saying rules are rules about the mangoes, and others siding with Hari saying that any mango that fell on the ground should be free for everybody. The argument has escalated to the level of the panchayat, where the elders have suggested mediation between the families to prevent any more bitterness.

Confidential Information:

- **Rakesh:** Wants strict respect for his property, but his deeper fear is that if he tolerates this, others will also steal.
- **Hari:** He feels insulted by Rakesh's public scolding. Secretly, he does not care much about the mangoes but wants his dignity restored.

Problem 11 : The Irritating Canal

Last month, the primary irrigation canal that provides water for three farm families failed, and Jagdish, who farms the land closest to the canal, partially restored it using his money and work. Jagdish is now requesting the other two families, Mohan and Lata, to pay him back for their share. Mohan says he couldn't help because he was busy with a family wedding, but he will only repay him a small amount. Lata says she was never informed of the repairs, and she won't pay anything. Jagdish feels cheated because the other two are receiving water without playing their part. Mohan and Lata claim Jagdish is inflating the costs and is trying to profit from his restorations. The discussion has interrupted cooperation in the fields, with each family calling the other selfish. Other farmers are concerned that this feud will hurt agreement about collective irrigation planning that relies on group unity. Mediation has been sought to re-establish trust and fairness.

Confidential Information:

- **Jagdish:** He did spend more money than he admits, as he had to borrow from relatives, and he is desperate to recover it quickly.
- **Lata:** She could contribute something but doesn't want to admit it, fearing if she pays once, Jagdish will always push her to share costs.

APPRECIATION TO THE CONTRIBUTORS

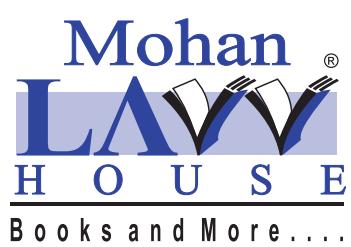
Man Mohan Sharma, an alumnus of the University of Delhi, joined the profession of law as a first-generation lawyer in 1991. Joined a nationalized bank in 1994 as a Law Officer but soon returned to his original calling as an Advocate in 1997. While continuing with his professional practice, his passion for teaching took him to the Law Faculty, University of Delhi where he had taught different subjects in law for five years from 1998 to 2003. Answering another turn in his career, he joined Delhi Higher Judicial Service as an Additional District & Sessions Judge in 2007 and held various important jurisdictions over a span of 18 years. Also worked as a Director in the Delhi Judicial Academy and as In-charge, Delhi Mediation Centre. Since 2014 he has been a Senior Trainer in mediation under the aegis of Medication & Conciliation Project Committee (MCPC) Supreme Court of India. He has trained more than 1500 aspirants in mediation pan India. He has also been a Master Trainer in Computers and Case Information System (CIS) under the aegis of e-Committee, Supreme Court of India. After demitting his office as Principal Judge, Family Courts, he is in active law practice with a tilt towards mediation and arbitration. He is a passionate teacher and has visited various collages, institutions and law universities. He has penned down many articles on law and economics. He also has a flair for writing poetry in English.

Iram Majid is a Standing Counsel for the Central Government at the Delhi High Court and serves as the Executive Director of the Asia Pacific Centre for Arbitration and Mediation (APCAM) and Director of the Indian Institute of Arbitration and Mediation (IIAM). She is internationally recognized for her leadership in the fields of mediation and arbitration. With over two decades of experience, she has trained more than 5,000 professionals, conducted over 500 mediations, and presided as an arbitrator in numerous domestic and international cases.

As an International Mediation Institute (IMI)-certified mediator, The Hague and a mediator appointed by the International Chamber of Commerce (ICC), Paris, Ms. Majid has represented India at global forums and contributed significantly to shaping mediation policy and practice. She also serves as the Honorary Director at Lloyd Law College, Greater Noida, enriching the institution's academic and professional ecosystem.

Internationally, she is an Observer at UNCITRAL Working Group II, Advisory Board Member of the Thailand Arbitration Centre, and Mediator with the UN Ombudsman. Educated at Harvard Law School and Pepperdine University, she is empanelled with several global ADR institutions and the Delhi High Court's SAMADHAN Centre. Her book on mediation, published by Thomson Reuters and housed in the UN Library, Vienna, reflects her scholarly influence. She is named among the Top 10 Mediators in the Asia-Pacific (2019) by Bali International Arbitration and Mediation Center (BIAMC), Ms. Majid continues to advance mediation as a tool for justice, collaboration, and peace.

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