



Community Mediation: A Just Alternative?

Expectations and Experiences of
Community Mediation Boards in the Northern Province

**Mohamed Munas
Gayathri Lokuge**

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The **Centre for Poverty Analysis (CEPA)** is an independent, Sri Lankan think-tank promoting a better understanding of poverty-related development issues. CEPA believes that poverty is an injustice that should be overcome and that overcoming poverty involves changing policies and practices nationally and internationally, as well as working with people in poverty. At CEPA our emphasis is on providing independent analysis, capacity building of development actors, and seeking opportunities for policy influence. We are influenced by a strong orientation towards service provision that is grounded in sound empirical evidence while responding to the needs of the market. CEPA maintains this market orientation through client requests, while pursuing a parallel independent research agenda based on four broad thematic areas: post war development, vulnerability, migration, infrastructure and the environment. Ultimately, CEPA strives to contribute to influencing poverty-related development policy at national, regional, sectoral, programme and project levels.

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Foreword

In Sri Lanka, access to justice through the country's overburdened court system remains out of reach for most citizens. Community Mediation Boards, first established in 1990, provide a crucial avenue for Sri Lankans to resolve individual, family, and community disputes in a timely and affordable way. Community Mediation Boards, administered by the Ministry of Justice, is a hybrid justice system that is state-coordinated, but community-implemented. The Asia Foundation has worked with the Ministry of Justice since the 1960s on a variety of initiatives to advance citizens' access to justice and has supported Community Mediation Boards since their inception in 1990. The Foundation has been involved since then in creating and strengthening the technical capacity of mediation trainers and the mediators themselves. The Foundation has been supporting the Ministry of Justice in implementing Community Mediation Boards island-wide, as well as more recent extension to the post-conflict Northern and Eastern provinces. With 329 boards and over 8,000 mediators across the country, the number of disputes has been steadily rising, with an average of 200,000 recorded in recent years.

As part of efforts to improve the quality and efficiency of the Community Mediation Boards programme, the Foundation has also supported the Ministry of Justice to raise awareness about the boards among key stakeholders and strengthen institutional linkages with the boards; increase women's representation across Community Mediation Boards; provide specialised mediation skills training to address financial disputes; and improve the programme's overall monitoring and evaluation system as part of efforts to support evidence-based decision making within the Ministry of Justice and the Mediation Boards Commission. With Community Mediation Boards established in all Divisional Secretariats across the country, the Foundation is now supporting the Ministry of Justice and the Mediation Boards Commission to establish special Mediation Boards to address land disputes.

As such, the Community Mediation Boards play an important role as an accessible, almost cost-free and appropriate means of resolving disputes at the grassroots level. Though not established exclusively to serve the poorer sections of society, the Community Mediation Boards serve as an accessible means of justice to those living in poverty. Given its own mandate and interest in poverty and the multi-dimensional ways of its manifestation, CEPA is pleased that The Asia Foundation commissioned CEPA to carry out this study which sheds a great deal of light on its attempts to understand poverty in a post-war context in the Northern Province of Sri Lanka. CEPA hopes that the findings of the study will trigger a vibrant discussion amongst policy makers, institutions related to the Community Mediation Boards and the general public.

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List of Abbreviations

AGA	Assistant Government Agent
CBO	Community Based Organisation
CEPA	Centre for Poverty Analysis
CMB	Community Mediation Board
CPA	Centre for Policy Alternatives
CPC	Civil Protection Committee
DS	Divisional Secretariat
FJS	Formal Justice Systems
GN	Grama Niladhari
IJS	Informal Justice Systems
JAF	Jaffna
KPI	Key Person Interview
KYT	Kayts
LTTE	Liberation Tigers of Tamil Eelam
MAN	Mannar
MB	Mediation Board
MRT	Maritime Pattu
MSEs	Micro and Small Enterprises
NAL	Nallur
RADA	Rehabilitation of Alcohol and Drug Addicts
RDS	Rural Development Society
TAF	The Asia Foundation
THN	Thunnukkai
WIN	Women in Need
WRDS	Women's Rural Development Society

Executive Summary

While Community Mediation Boards have a long history in Sri Lanka, dating back to 1990, the establishment of these boards in the Northern Province was relatively recent, with the first Community Mediation Board being set up in Jaffna in 2006. However, since then, Community Mediation Boards have been established in all the Divisional Secretariats in the Northern Province, with the most recent being Thunnukkai division in Mullaitivu district which was established in 2014. At present there are 329 Community Mediation Boards in operation in the country, covering all the divisional secretariats. While studies have been carried out over the years on the impact of Community Mediation Boards on dispute resolution, social harmony, role in resolving cases of domestic violence and a comprehensive survey conducted in 2011 which studied the impact and outcomes of Community Mediation Boards, there was a gap in terms of trying to understand the type of justice that is expected and perceived to be delivered by the Community Mediation Boards from the point of view of the disputants as an inductive analysis. The Asia Foundation, a supporter of setting up Community Mediation Boards in the Northern Province, approached the Centre for Poverty Analysis to carry out this study to fill the gap identified above.

The overall aim of the study is to understand how those who access Community Mediation Boards perceive and experience Community Mediation Boards in the Northern Province. The study specifically looked at disputants' expectations of Community Mediation Boards, factors that explain disputants' satisfaction or dissatisfaction of the mediation processes and outcomes and who accesses Community Mediation Boards in the Northern Province. An in-depth, qualitative methodology was used, given the desire for an inductive, ground-up approach. The sampling process was unique when it comes to the study of Community Mediation Boards in Sri Lanka in that the purposively selected sample of respondents was obtained without consulting the Community Mediation Board members or their records. Instead, government administrative officers and community based organisation members were consulted to obtain the sample. The study employed semi-structured questionnaires during informal interviews to collect the data from a sample of 46 disputants from the divisional secretariat divisions of Jaffna, Nallur, Kayts in Jaffna district, Maritime Pattu and Thunukkai in Mullaitivu district and Mannar division in Mannar district. The data collection was carried out during July-August 2015.

Main Findings

The study shows that experiences and expectations of Community Mediation Boards are coloured by people's past associations with mediation or informal justice processes in the area. Second, the knowledge of and experience with the formal justice mechanisms also shape their expectations towards Community Mediation Boards. Third, perceptions and expectations of the Community Mediation Boards are not static; they change as the engagement during the mediation process advances and they shift in keeping with changing perceptions of the dispute itself.

Disputants tend to attribute characteristics of both the formal and non-formal justice mechanisms to Community Mediation Boards. Further, from the point of view of the disputants, the distinction between the formal and non-formal mechanisms is blurred. This blurring of distinction translates into expectations of both formal and non-formal processes and outcomes from Community Mediation Boards. Further, disputants' satisfaction levels are also influenced by the dual expectations that they have of Community Mediation Boards.

Community Mediation Boards in Sri Lanka use interest based mediation principles where reaching a mutually acceptable solution is the basis for the negotiation process. They are not mandated to

pass legally binding decisions or settlements. Passing judgments and settlements that are not legally binding but rather mutually agreed upon seem to create mixed reactions within disputants with regard to Community Mediation Boards. On the one hand, disputants clearly appreciated the in-depth discussions prior to reaching a settlement and the space given to them to air their views. On the other hand, the fact that the settlements are not legally binding creates a perception among the disputants that the settlements and the decision making process do not carry the 'weight' or authority that they expect of a dispute resolution mechanism.

The study clearly shows that regardless of the outcome, disputants appreciate the process that is followed. These process related factors include being listened to, use of local languages, being given the space to talk and being respected. These factors brought some level of satisfaction and created favourable impressions towards Community Mediation Boards. While those who do approach Community Mediation Boards have clear expectations of a just settlement, these settlements reached are not always reflective of what they may have gained from the mediation process. Hence, while mediators may perceive success in terms of the number of settlements, disputants' perception of outcomes is linked to how the mediation process took place.

The fact that the mediators and disputants as well as the processes followed by Community Mediation Boards are embedded within the same social fabric creates both positive and negative impacts. Given that mediators are chosen from within the community they can be expected to have a good understanding of local realities and socio-cultural nuances and in general disputants, and both men and women, clearly felt comfortable in dealing with these individuals. However, the social embeddedness of Community Mediation Boards can also mean that the powerful within the community—mediators and disputants alike—may impose themselves thus subverting the very spirit and purpose of community-based mediation. The groups that can be impacted most adversely by these power imbalances could be women and both men and women from lower socio-economic levels. Further, accountability to the community can also translate into mediators going beyond their mandate and reach 'forced settlement' in attempting to 'prove success' by using the number of settlements as an indicator of performance.

Satisfaction with Community Mediation Boards

Bias: Many respondents questioned the legitimacy of the formal justice mechanisms, based on allegations of corruption, discrimination and bias. This, in turn, plays a role in shaping people's perceptions of Community Mediation Boards. In general, Community Mediation Boards appear to be perceived as relatively less biased and uncorrupt. However, the ethnicity, gender, age, class and caste of the mediators may affect the levels of satisfaction if the mediators are seen to be biased in their treatment towards other identity groups.

Cost: In general, Community Mediation Boards were seen to be less costly compared to the formal mechanisms. In our analysis, even though some disputants from lower income categories, such as daily wage labourers, maintained that the economically better off prefer the courts over Community Mediation Boards, the data suggests that irrespective of socio-economic background there was a preference for mediation.

Time: Compared to the formal justice system, Community Mediation Boards act faster in settling the disputes. However, specific cases such as land related disputes were perceived to take longer to settle given the complicated nature of the type of the case.

Language: The ability to use the Tamil language in Community Mediation Boards, as opposed to

the formal justice system, where it still remains a challenge, was a significant factor that makes Community Mediation Boards attractive to resolve disputes.

Depth of discussion: Generally people have positive experiences with regard to the depth of discussion taking place during the mediation process. They are satisfied with the level of inquiry. In their opinion, sufficient time is given to both disputing parties to talk about and explain their grievances.

The depth of discussion in relation to financial disputes show a variance depending on the parties involved. Community Mediation Boards across the three districts studied deal with a large number of different types of financial disputes ranging from informal transactions involving individuals or collectives (such as savings and loan groups) to formal bank loans. The data show that there is an inconsistency between how person to person transactions and person to bank transactions are being handled by the Community Mediation Boards.

Accessing Community Mediation Boards in the Northern Province

Unarguably, their accessibility, proximity and relatively lower costs and simpler procedures have resulted in a number of people in the Northern Province bringing their disputes to Community Mediation Boards. Not all the disputants approach Community Mediation Boards by choice or with a clear expectation of outcomes. Some disputants are referred to Community Mediation Boards by the police or courts while others approach them to explore the possibilities of a settlement and yet others because they believe it to be relatively inexpensive.

In terms of social groups that tend to use Community Mediation Boards, our analysis somewhat opposes the contention that the poor access them most often to resolve their disputes, for local power-holders like financial institutions are increasingly using the Community Mediation Boards to re-negotiate loan settlement terms. Further, social networks and standing play an important role in determining the nature of access individual disputants have to Community Mediation Boards.

In general, women seem to prefer accessing Community Mediation Boards for disputes that concern them including domestic violence cases. However, the fact that Community Mediation Boards are not mandated to provide follow up or counselling services are seen by actors working on women's issues as a weakness of the Community Mediation Boards. Further, the possibility of reifying social and cultural norms and beliefs by the mediators raise the need to rethink the handling of domestic violence cases by Community Mediation Boards.

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ප්‍රජා සමථ මණ්ඩල ශ්‍රී ලංකාව තුළ 1990 තරම් අතීත කාලයක සිට පැවති ඇති නමුත් උතුරු පළාතෙහි පිහිටුවන ලද්දේ මෑතකදී ය; පළමු සමථ මණ්ඩලය 2006 දී යාපනයෙහි පිහිටුවන ලදී. කෙසේ වුව ද, එතැන් පටන් මේ දක්වා කාලය තුළ උතුරු පළාතේ සියලු ම ප්‍රාදේශීය ලේකම් කොට්ඨාසවල ප්‍රජා සමථ මණ්ඩල පිහිටුවා ඇත. මෑත ම උදාහරණය ලෙස 2014 දී මුලතිව් දිස්ත්‍රික්කයේ තුනුක්කායි කොට්ඨාසයෙහි පිහිටුවන ලද සමථ මණ්ඩලය දැක්විය හැකි ය. වර්තමානයේ දී ඊට තුළ පවත්නා සියලු ප්‍රාදේශීය ලේකම් කොට්ඨාස ගත් විට ප්‍රජා සමථ මණ්ඩල 329ක් ක්‍රියාත්මක වේ. ආරාච්ඡල නිරාකරණය හා සමාජ සහජීවනය සම්බන්ධයෙන් ප්‍රජා සමථ මණ්ඩල කරන බලපෑම ගැන සහ ගහස්ථ ප්‍රවණත්වය පිළිබඳ සිදුවීම්වලට විසඳුම් සෙවීමේ දී ඒවා ඉටු කරන කාර්ය භාරය ගැන වසර ගණනාවක් තිස්සේ අධ්‍යයනයන් සිදු කර ඇත. 2011 දී ප්‍රජා සමථ මණ්ඩලවල බලපෑම හා ප්‍රතිඵල ගැන පුළුල් අධ්‍යයනයක් සිදු කර ඇත. එහෙත්, ආරාච්ඡලකරුවන් ප්‍රජා සමථ මණ්ඩලවලින් ඉටු විය යුතු යැයි අපේක්ෂා කරන්නේ හා සිතන්නේ කවරාකාර යුක්තියක් ද යන්න අවබෝධ කර ගැනීමට උත්සාහ දරන පොලඹන සුලු විශ්ලේෂණයකට මෙතෙක් මුල පුරා නැත. උතුරු පළාතෙහි ප්‍රජා සමථ මණ්ඩල පිහිටුවීමට සහාය දුන් එක් පාර්ශ්වයක් වන ආසියා පදනම මෙම හිඳුස පිරවීම සඳහා මෙම අධ්‍යයනය සිදු කිරීමේ දී දරිද්‍රතා විශ්ලේෂණ කේන්ද්‍රය සමග එක්වූයේ ය. අධ්‍යයනයේ සමස්ත අභිමතාර්ථය වන්නේ උතුරු පළාතේ දී ප්‍රජා සමථ මණ්ඩලවලට ප්‍රවේශ වන අය ඒවා වටහා ගන්නා සහ අත්දකින ආකාරය අවබෝධ කර ගැනීම ය. අධ්‍යයනයේ දී විශේෂයෙන් විමසා බැලෙන්නේ ආරාච්ඡලකරුවන් ප්‍රජා සමථ මණ්ඩල ගැන තබා තිබෙන අපේක්ෂාවන්, සමථකරණ ක්‍රියාවලි හා ඒවායේ ප්‍රතිඵල ගැන ආරාච්ඡලකරුවන් තුළ පවත්නා තෘප්තිය හෝ අතෘප්තිය පැහැදිලි කරන සාධක සහ උතුරු පළාතේ දී ප්‍රජා සමථ මණ්ඩලවලට ප්‍රවේශ වන්නේ කවුරුන් ද යන කරුණු ය. පොලඹන සුලු, ප්‍රාරම්භක ප්‍රවීණතාවක් මත කටයුතු කිරීමට අපේක්ෂා කළ බැවින් පුළුල්, ගුණාත්මක ක්‍රමවේදයක් යොදා ගන්නා ලදී. නියැදිකරණ ක්‍රියාවලිය ශ්‍රී ලංකාවේ ප්‍රජා සමථ මණ්ඩල පිළිබඳ අධ්‍යයනයට ම ආවේණික විය; ප්‍රතිචාර දක්වන්නන්ගේ නියැදිය හිතාමතා ම ප්‍රජා සමථ මණ්ඩල සාමාජිකයන් හෝ ඔවුන්ගේ වාර්තා විමසීමෙන් තොරව තෝරා ගැනිණ. ඒ වෙනුවට නියැදිය තෝරා ගැනීමේ දී රජයේ නිලධාරීන්ගේ හා ප්‍රජා මූල සංවිධානවල සාමාජිකයන්ගේ අදහස් විමසන ලදී. අධ්‍යයනයේ දී දත්ත රැස් කිරීම සඳහා සිදු කළ නොවිධිමත් සම්මුඛ සාකච්ඡා සඳහා යොදා ගන්නා ලද්දේ අර්ධ ව්‍යුහගත ප්‍රශ්නාවලීන් ය. සම්මුඛ සාකච්ඡා සඳහා යාපනය දිස්ත්‍රික්කයේ යාපනය, නල්ලූර, කයිට්ස්, මුලතිව් දිස්ත්‍රික්කයේ මුහුදුබඩ පත්තුව හා තුනුක්කායි සහ මන්නාරම දිස්ත්‍රික්කයේ මන්නාරම යන ප්‍රාදේශීය ලේකම් කොට්ඨාසවලින් තෝරා ගත් ආරාච්ඡලකරුවන් 46 දෙනෙකුගේ නියැදියක් සම්බන්ධ කර ගැනිණ. දත්ත රැස් කෙරුණේ 2015 ජුලි-අගෝස්තු කාලය තුළ දී ය.

ප්‍රධාන සොයා ගැනීම්

අධ්‍යයනය පෙන්වා දෙන්නේ සමථකරණ මණ්ඩලවලින් ලද අත්දැකීම් සහ ඒවා ගැන තබා තිබෙන අපේක්ෂාවන් කෙරෙහි ප්‍රදේශය තුළ පැවති සමථකරණ හෝ නොවිධිමත් යුක්ති ක්‍රියාවලි සමග ජනතාවට අතීතයේ දී පැවති සම්බන්ධකම් බලපා ඇති බවය. දෙවනුව, ප්‍රජා සමථ මණ්ඩල පිළිබඳව තබා තිබෙන අපේක්ෂාවන් කෙරෙහි විධිමත් යුක්ති ක්‍රියාවලි පිළිබඳ දැනුම හා අත්දැකීම් ද බලපා ඇති බව ය. තෙවනුව, ප්‍රජා සමථකරණ මණ්ඩල පිළිබඳ වැටහීම් හා අපේක්ෂාවන් නොවෙනස් වන ඒවා නොවන බව ය. සමථකරණ ක්‍රියාවලිය ඉදිරියට යද්දී ඊට සම්බන්ධ වන්නන් තුළ ආරාච්ඡල පිළිබඳව පවත්නා අදහස් ක්‍රමයෙන් වෙනස් වන විට වැටහීම් හා අපේක්ෂාවන් ද ක්‍රමයෙන් වෙනස් වන බව යි.

ආරාච්ඡලකරුවෝ ප්‍රජා සමථකරණ මණ්ඩලවලට විධිමත් හා නොවිධිමත් යන දෙයාකාරයේ ම යුක්ති ක්‍රියාවලිවල ලක්ෂණ ආරෝපණය කරයි. එපමණක් නො ව, ආරාච්ඡලකරුවන්ගේ අදහස නම් විධිමත් හා නොවිධිමත් යුක්ති ක්‍රියාවලි අතර පවත්නා වෙනස නොපැහැදිලි බව ය. වෙනස පිළිබඳ මෙම නොපැහැදිලිකම ප්‍රජා සමථකරණ මණ්ඩලවල විධිමත් හා නොවිධිමත් ක්‍රියාවලි සහ ඒවායේ ප්‍රතිඵල පිළිබඳ අපේක්ෂාවන් බවට පරිවර්තනය වේ. එමෙන් ම, ආරාච්ඡලකරුවන් තෘප්තිමත් වන තරම කෙරෙහි ද ප්‍රජා සමථකරණ මණ්ඩල පිළිබඳව ඔවුන් තුළ පවත්නා මෙම දෙයාකාර අපේක්ෂා බලපායි.

ශ්‍රී ලංකාවේ ප්‍රජා සමථකරණ මණ්ඩල විසින් යොදා ගැනෙන්නේ අවශ්‍යතා පදනම් කර ගත් සමථකරණ මූලධර්මයන් ය. සාකච්ඡා ක්‍රියාවලියේ පදනම වන්නේ අන්‍යෝන්‍යව එකඟ විය හැකි විසඳුමක් කරා ළඟා වීම ය. නීතිමය බැඳීමක් සහිත තීන්දු හෝ නිරවුල් කිරීම්වලට එළඹීමට ඒවාට වරමක් නැති නීතිමය බැඳීමක් නොමැති, අන්‍යෝන්‍යව එකඟ විය හැකි තීන්දු හා නිරවුල් කිරීම්වලට එළඹීම නිසා ආරාච්ඡලකරුවන් ප්‍රජා සමථ මණ්ඩල සම්බන්ධයෙන් දක්වන්නේ මිශ්‍ර ප්‍රතිචාරයන් ය. එක් අතකින් ආරාච්ඡලකරුවෝ නිරවුල් කිරීමක් කරා ළඟා වීමට පෙර කෙරෙන පුළුල් සාකච්ඡා ද තම

අදහස් පළ කිරීමට ඔවුන්ට ලැබෙන අවකාශය ද අගය කරති. අනෙක් අතින්, නිරවුල් කිරීම් නීතිමය බැඳීමක් නොමැති ඒවා ය යන කරුණ නිසා ආරාච්ඡල්කරුවන් අතර නිරවුල් කිරීම් හා තීන්දු ගැනීමේ ක්‍රියාවලිය අපේක්ෂා කරන 'බලපෑම් සහගත බව' හෝ අධිකාරවත් බව නොදරන්නේ ය යන හැඟීම ඇති වීමට හේතු වේ.

අධ්‍යයනය පැහැදිලි ලෙස ම පෙන්වා දෙන්නේ ආරාච්ඡල්කරුවන් ප්‍රතිඵලය කුමක් වුවත් අනුගමනය කෙරෙන ක්‍රියාවලිය අගය කරන බව යි. ක්‍රියාවලිය ආශ්‍රිත මෙම සාධක අතරට තමන්ට සවන් දෙනු ලැබීම, ප්‍රාදේශීය භාෂා යොදා ගැනීම, තමන්ට කතා කිරීමට අවකාශය දෙනු ලැබීම හා ගරු කරනු ලැබීම ඇතුළත් වේ. මෙම සාධක යම් තරමක තෘප්තියක් ලබා දීමට ද සමටකරණ මණ්ඩල සම්බන්ධයෙන් හිතකර අදහස් ඇති වීමට ද හේතු විය. ප්‍රජා සමටකරණ මණ්ඩලවලට ප්‍රවේශ වන අය සාධාරණ නිරවුල් කිරීමක් ගැන පැහැදිලි ලෙස ම අපේක්ෂා තබන නමුත් එහි දී ඇති කර ගැනෙන මෙම නිරවුල් කිරීම් මගින් සමටකරණ ක්‍රියාවලියෙන් ඔවුන් ලද ප්‍රයෝජනය හැම විට ම පිළිබිඹු නො වේ. මේ නිසා, සමටකරුවන් නිරවුල් කිරීම් සංඛ්‍යාව සැලකිල්ලට ගෙන සාර්ථකත්වය මනිනු ඇතත් ආරාච්ඡල්කරුවන් ප්‍රතිඵල ගැන දරන අදහස සමටකරණ ක්‍රියාවලිය සිදු වන ආකාරය සමග සම්බන්ධ බව පැහැදිලි ය.

සමටකරුවන් හා ආරාච්ඡල්කරුවන් තුළ මෙන් ම ප්‍රජා සමටකරණ මණ්ඩල විසින් අනුගමනය කෙරෙන ක්‍රියාවලීන් තුළද කා වැදී තිබෙන්නේ එක ම සමාජ වියමනකි. එම වියමන ධනාත්මක හා ඍණාත්මක යන දෙයාකාරයේ ම බලපෑම් ඇති කරයි. සමටකරුවන් තෝරා ගැනෙන්නේ ප්‍රජාව තුළින් ම බැවින් ඔවුන්ට ප්‍රාදේශීය යථාර්ථයන් හා සියුම් සමාජ-සංස්කෘතික වෙනස්කම් ගැනද පොදුවේ පිරිමි හා ගැහැනු යන දෙපාර්ශ්වයේ ම ආරාච්ඡල්කරුවන් ගැන ද මනා අවබෝධයක් ඇතැයි අපේක්ෂා කළ හැකි ය. මෙම පුද්ගලයන් සමග කටයුතු කිරීමේ දී ඔවුන්ට නිශ්චිතව ම පහසුවක් දැනිය හැකි ය. කෙසේ වුව ද, ප්‍රජා සමටකරණ මණ්ඩල ප්‍රාදේශීය සමාජය තුළ කා වැදුණක් වීම නිසා ප්‍රජාව තුළ සිටින බලවතුන් - සමටකරුවන් වේවා ආරාච්ඡල්කරුවන් වේවා - ප්‍රජා මූල සමටකරණයේ සැබෑ හරයට හා අභිමතාර්ථයට හානි කරමින් නොමනා බලපෑම් කිරීම ද සිදු විය හැකි ය. මෙම බල අසමතුලිතතා වඩාත් ම අහිතකර ලෙස බලපෑමට ඉඩ තිබෙන කණ්ඩායම් විය හැක්කේ කාන්තාවන් සහ පහළ සමාජ-ආර්ථික ස්තරවලට අයත් පිරිමින් හා ගැහැනුන් ය. එපමණක් නො ව, ප්‍රජාව කෙරෙහි පවත්නා වග වීම ආශ්‍රිත බැඳීම් ද 'බලාත්කාරී නිරවුල් කිරීම්' කරා එළඹීමට හේතු විය හැකි ය. සමටකරුවන් තමන්ට ඇති වරම ඉක්ම ගොස් කාර්ය සාධන දර්ශකයක් ලෙස නිරවුල් කිරීම් සංඛ්‍යාව යොදා ගෙන 'සාර්ථකත්වය ඔප්පු කිරීමට' ප්‍රයත්න දැරිය හැකි ය.

ප්‍රජා සමටකරණ මණ්ඩලවලින් ලැබෙන තෘප්තිය

අගතිය (Bias): බොහෝ ප්‍රතිචාර දක්වන්නෝ දූෂණය, වෙනස්කම් කිරීම හා අගතිය පිළිබඳ චෝදනා පදනම් කර ගෙන විධිමත් යුක්තියේ සුජාත භාවය ප්‍රශ්නයට බඳුන් කරති. මේ අනුව එය ප්‍රජා සමටකරණ මණ්ඩල පිළිබඳ ජනතා අදහස් හැඩ ගැසීමේ දී කාර්ය භාරයක් ඉටු කරයි. ප්‍රජා සමටකරණ මණ්ඩල සංසන්දනාත්මකව අගතියෙන් අඩු වූත් අදෘෂ්ට වූත් ඒවා ලෙස දකින බවක් පොදුවේ පෙනී යයි. කෙසේ වුව ද, සමටකරුවන් අනෙක් අන්‍යයා කණ්ඩායම්වලට අගතියෙන් (biased) යුතුව සලකන බවක් පෙනෙන්නේ නම් ඔවුන්ගේ ජනවාර්ගිකත්වය, ස්ත්‍රී-පුරුෂ භාවය, වයස, සමාජ පන්තිය හා කුලය ආරාච්ඡල්කරුවන්ගේ තෘප්තියේ මට්ටම කෙරෙහි බලපෑ හැකි ය.

වියදම: විධිමත් ක්‍රියාවලි සමග සසඳන විට ප්‍රජා සමටකරණ මණ්ඩල වියදම් අඩු බව පොදු මතය යි. අපගේ විශ්ලේෂණය අනුව, දෛනික වැටුප් ලබන කම්කරුවන් වැනි පහළ ආදායම් කාණ්ඩවලට අයත් සමහර ආරාච්ඡල්කරුවන් ප්‍රජා සමටකරණ මණ්ඩලවලට වඩා උසාවිවලට වැඩි කැමැත්තක් දක්වන බව පෙනී ගිය නමුත් දත්තවලින් ඇඟවෙන්නේ ආරාච්ඡල්කරුවන්ගේ සමාජ-ආර්ථික පසුබිම කුමක් වුවත් ඔවුන් සමටකරණය කෙරෙහි වැඩි කැමැත්තක් දක්වන බව යි.

කාලය: ප්‍රජා සමටකරණ මණ්ඩල විධිමත් යුක්ති ක්‍රමයට වඩා ඉක්මනින් ආරාච්ඡල් නිරාකරණය කරයි කෙසේ වුව ද, ඉඩම් සම්බන්ධ ආරාච්ඡල් ආදියේ දී ඒවායේ සංකීර්ණ බව නිසා නිරාකරණය සඳහා වඩා දිගු කාලයක් ගත වන්නේ ය යන අදහස පවතී.

භාෂාව: විධිමත් යුක්ති ක්‍රමයේ දී මෙන් නො ව ප්‍රජා සමටකරණ මණ්ඩලවල දී දෙමළ භාෂාව යොදා ගත හැකි වීම (තව මත් අභියෝගයක්ව තිබෙන නමුත්) ආරාච්ඡල් නිරාකරණය කර ගැනීම සඳහා ප්‍රජා සමටකරණ මණ්ඩල වෙත වඩාත් ආකර්ෂණය වීමට සැලකිය යුතු සාධකයක් වී ඇත.

සාකච්ඡාවේ ගැඹුර: සමටකරණ ක්‍රියාවලියේ දී සිදු වන සාකච්ඡාවේ ගැඹුර සම්බන්ධයෙන් පොදුවේ ජනතාව ලබා ඇත්තේ ධනාත්මක අත්දැකීමකි. කරනු ලබන විමර්ශනයේ තරම සම්බන්ධයෙන් ඔවුන් තෘප්තිමත් ය. ඔවුන්ගේ අදහස

නම්, තම දුක් ගැනවිලි ගැන කතා කිරීමට හා ඒවා පැහැදිලි කිරීමට ආරාධනා ලේ දෙපාර්ශ්වයට ම ප්‍රමාණවත් කාලයක් ලැබෙන බව යි.

මුදල් ආරාධනාවල දී ඒවාට සම්බන්ධ පාර්ශ්වයන් අනුව සාකච්ඡාවේ ගැඹුර වෙනස් වන බව පෙනේ. අධ්‍යයනය කරන ලද දිස්ත්‍රික්ක තුනේ ම ප්‍රජා සමථකරණ මණ්ඩල විවිධාකාර මුදල් ආරාධනා විශාල සංඛ්‍යාවක් සම්බන්ධයෙන් කටයුතු කරයි. ඒවා පුද්ගලයන් හෝ (ඉතිරි කිරීම් හා ණය කණ්ඩායම් වැනි) සාමූහිකයන් සම්බන්ධ නොවිධිමත් මුදල් ගනුදෙනුවල සිට විධිමත් බැංකු ණය දක්වා වූ පරාසයක විහිදේ. දත්තවලින් පෙනීයන්නේ සමථකරණ මණ්ඩල විසින් පුද්ගලයන් හා පුද්ගලයන් අතර ගනුදෙනු සහ පුද්ගලයන් හා බැංකු අතර ගනුදෙනු හැසිරවෙන ආකාරයෙහි වෙනසක් පවතින බව යි.

උතුරු පළාතේ දී ප්‍රජා සමථකරණ මණ්ඩල වෙත ප්‍රවේශ වීම

උතුරු පළාතේ දී බොහෝ පුද්ගලයන් සිය ආරාධනා ප්‍රජා සමථකරණ මණ්ඩල හමුවට රැගෙන ඒම කෙරෙහි ඒවා වෙත පහසුවෙන් ප්‍රවේශ විය හැකි වීම, ආසන්නයේ පැවතීම හා සංසන්දනාත්මකව අඩු වියදම බලපා තිබෙන බව නිසැක ය. සියලු ආරාධනාකරුවන් ප්‍රජා සමථකරණ මණ්ඩල වෙත ළඟා වන්නේ තම මනාපය අනුව හෝ ප්‍රතිඵල පිළිබඳ පැහැදිලි අපේක්ෂා ඇතිව යැයි කිව නොහැකි ය. සමහර ආරාධනාකරුවන් පොලීසිය හෝ උසාවි විසින් ප්‍රජා සමථකරණ මණ්ඩල වෙත යොමු කෙරෙන අතර තවත් අය එමගින් නිරවුල් කිරීමකට ළඟා විය හැකි දැයි විමසා බැලීමට ද තවත් සමහරු සංසන්දනාත්මකව වියදම් අඩු යැයි සිතන නිසා ද ඒවා වෙත ළඟා වෙති.

ප්‍රජා සමථකරණ මණ්ඩල යොදා ගැනීමට නැඹුරු වන සමාජ කණ්ඩායම් සම්බන්ධයෙන් අපගේ විශ්ලේෂණයේ සොයා ගැනීම් සිය ආරාධනා නිරාකරණය කර ගැනීම සඳහා ඒවා වෙත වැඩි වශයෙන් ම යොමු වන්නේ දුප්පතුන් ය යන තර්කයට යම් තරමකට විරුද්ධ බව කිව යුතු ය. කෙසේ වුව ද, මූල්‍ය ආයතන වැනි ප්‍රාදේශීය බල දරන්නෝ ණය පියවීමේ කොන්දේසි යළි සාකච්ඡා කර ගැනීම සඳහා ප්‍රජා සමථකරණ මණ්ඩල වැඩි වැඩියෙන් යොදා ගනිමින් සිටිති. එපමණක් නො ව, පුද්ගල ආරාධනාකරුවන්ට ප්‍රජා සමථකරණ මණ්ඩල වෙත පවත්නා ප්‍රවේශයේ ස්වභාවය තීරණය වීමේ දී සමාජ ජාල සහ තත්ත්වය වැදගත් කාර්ය භාරයක් ඉටු කරයි.

කාන්තාවන් තමන්ට අදාළ ගෘහස්ථ ප්‍රවණ්ඩත්වය ඇතුළු ආරාධනාවල දී ප්‍රජා සමථකරණ මණ්ඩල වෙත ප්‍රවේශ වීමට වැඩි කැමැත්තක් දක්වන බවක් පොදුවේ පෙනී යයි. කෙසේ වුව ද, ප්‍රජා සමථකරණ මණ්ඩලවලට පසු විපරම් හෝ උපදේශන සේවාවන් සම්පාදනය කිරීමට වරමක් නැති හෙයින් කාන්තාවන්ගේ ගැටලු සම්බන්ධයෙන් කටයුතු කරන ක්‍රියාකාරීහු එය ප්‍රජා සමථකරණ මණ්ඩලවල දුර්වලතාවක් ලෙස දකිති. එපමණක් නොව, සමථකරුවන් විසින් සමාජීය හා සංස්කෘතික මිනුම් දඩු හා විශ්වාසයන් අදාළ කර ගැනීමට ඉඩ තිබීම නිසා ද ගෘහස්ථ ප්‍රවණ්ඩත්වය පිළිබඳ සිදුවීම් ප්‍රජා සමථකරණ මණ්ඩල විසින් හැසිරවීමේ නිරවද්‍ය භාවය ගැන නැවත සිතා බැලීමට සිදු වේ.

நிறைவேற்றுச் சுருக்கம்

1990ஆம் ஆண்டுகளிலிருந்தே, இலங்கை வரலாற்றில் மிக நீண்ட காலமாக சமுதாய மத்தியஸ்த சபைகள் இயங்கி வந்தாலும் வட மாகாணத்தில் இச்சபைகளது தோற்றம் மிக அண்மைக் காலத்திற்குரியதாகும். முதலாவது சமுதாய மத்தியஸ்த சபையானது 2006ஆம் ஆண்டு யாழ்ப்பாணத்தில் ஆரம்பிக்கப்பட்டது. இருந்தாலும் அன்றிலிருந்து வட மாகாணத்தின் அனைத்து பிரதேச செயலகப் பிரிவுகளிலும் சமுதாய மத்தியஸ்த சபைகள் உருவாக்கப்பட்டு வந்துள்ளதுடன் மிக அண்மையில் 2014 ஆம் ஆண்டில் முல்லைத்தீவு மாவட்ட துணுக்காய் பிரதேசத்தில் ஆரம்பிக்கப்பட்டது. தற்போது நாட்டில் அனைத்து பிரதேச செயலகப் பிரிவுகளையும் உள்ளடக்கியதாக 329 சமுதாய மத்தியஸ்த சபைகள் இயங்கி வருகின்றன. முரண்பாடுகளைத் தீர்த்தல், சமூக ஒற்றுமை, வீட்டு வன்முறைகளைத் தீர்த்து வைத்தல் என்பதில் இச்சமுதாய மத்தியஸ்த சபைகளது பங்களிப்பு மற்றும் தாக்கங்களை ஆய்வு செய்வதற்காக பல ஆய்வுக் கற்கைகள் மற்றும் 2011ஆம் ஆண்டில் சமுதாய மத்தியஸ்த சபைகளது தாக்கம் மற்றும் விளைவுகளை கற்பதற்கான விரிவான ஆய்வு என்பன மேற்கொள்ளப்பட்ட போதும், ஒரு உய்த்தறிமுறை ஆய்வாக பிணக்குதாரர்களது பக்கமிருந்து நோக்கும்போது சமுதாய மத்தியஸ்த சபைகளால் ஆற்றுவதற்கு எதிர்பார்க்கப்படுகின்ற விளைவினை அறிந்துகொள்ள முற்படுகையில் இடைவெளியொன்று உள்ளமை இனங்காணப்பட்டுள்ளது. வட மாகாணத்தில் சமுதாய மத்தியஸ்த சபைகளை அமைப்பதில் ஒத்துழைப்பு வழங்கிய ஆசிய அமைப்பு மேலே இனங்காணப்பட்ட இடைவெளியினை நிரப்புவதற்காக வறுமை ஆராய்ச்சி நிலையத்தினை அணுகியது.

வட மாகாணத்தில் சமுதாய மத்தியஸ்த சபைகளது சேவைகளை பெற்றுக்கொள்ளக்கூடியவர்கள் இச்சமுதாய மத்தியஸ்த சபைகளை எவ்வாறு நோக்குகின்றனர் மற்றும் அனுபவிக்கின்றனர் என்பதனை புரிந்துகொள்வதே இவ்வாய்வினது முழு இலக்காகும். சமுதாய மத்தியஸ்த சபைகளிடமிருந்து பிணக்குதாரர்களது எதிர்பார்ப்புக்கள், மத்தியஸ்த செயற்பாடுகள் மற்றும் விளைவுகள் தொடர்பாக பிணக்குதாரர்களது திருப்தி மற்றும் அதிருப்தி மற்றும் வட மாகாணத்தில் சமுதாய மத்தியஸ்த சபைகளை பெற்றுக்கொள்பவர்கள் தொடர்பாக குறிப்பாக இக்கற்கை மேற்கொள்ளப்பட்டது. ஒரு உய்த்தறிமுறையிலான அடிப்படை அணுகுமுறையினை வேண்டி ஆழமானதொரு பண்பறி செயன்முறை பயன்படுத்தப்பட்டது. மாதிரிச் செயன்முறை இலங்கையில் சமுதாய மத்தியஸ்த சபைகளது கற்கைக்கு தனித்துவமானதாக உள்ளதுடன் இங்கு சமுதாய மத்தியஸ்த சபைகளது அங்கத்தவர்களது அல்லது அவர்களது பதிவுகளிலிருந்து ஆலோசனைகள் பெற்றுக்கொள்ளப்படாது நோக்கத்திற்குரியதாக தெரிவுசெய்யப்பட்ட பதிலளிப்பாளர்களது மாதிரியொன்று ஆய்வுக்குட்படுத்தப்பட்டது. பதிலாக அரச அதிகாரிகள் மற்றும் சமுதாய அடிப்படையிலான அமைப்புக்களது அங்கத்தவர்களது ஆலோசனைகள் மாதிரியைப் பெற்றுக்கொள்வதில் பெறப்பட்டன. யாழ்ப்பாண மாவட்டத்தினது யாழ்ப்பாணம், நல்லூர் மற்றும் ஊர்காவற்றுறை பிரதேச செயலகப் பிரிவுகள், முல்லைத்தீவு மாவட்டத்தினது கரைதுறைப்பற்று மற்றும் துணுக்காய் மற்றும் மன்னார் மாவட்டத்தினது மன்னார் பிரதேச செயலகப் பிரிவுகளிலிருந்து 46 பிணக்குதாரர்களைக் கொண்ட மாதிரியொன்றிலிருந்து தரவுகளை சேகரிப்பதற்கான முறைசாரா நேர்காணல்களின் போது பகுதி – கட்டமைப்புக்குரிய வினாக்கொத்துக்கள் ஆய்வின் போது பயன்படுத்தப்பட்டன. தரவு சேகரிப்பானது 2015 ஆம் ஆண்டு ஜூலை – ஆகஸ்ட் மாதங்களில் மேற்கொள்ளப்பட்டது.

பிரதான கண்டாய்வுகள்

பிரதேசங்களில் உள்ள மத்தியஸ்த அல்லது முறைசாரா நீதிச் செயன்முறைகளுடன் மக்கள் கொண்டிருந்த கடந்த கால உறவுகளினால் மத்தியஸ்த சபைகளுடனான அனுபவங்கள் மற்றும் அவற்றிலிருந்தான எதிர்பார்ப்புக்கள் மெருகூட்டப்பட்டுள்ளதென்பதை கற்கை காட்டுகின்றது. இரண்டாவதாக முறைசார் நீதி பொறிமுறைகள் பற்றிய அறிவு மற்றும் அனுபவங்களும் சமுதாய மத்தியஸ்த சபைகள் தொடர்பான மக்களது எதிர்பார்ப்புக்களை உருவாக்குகின்றன. மூன்றாவதாக சமுதாய மத்தியஸ்த சபைகள் தொடர்பான நோக்குகளும் தமது எதிர்பார்ப்புக்களும் நிலையானதல்ல. மாறாக மத்தியஸ்த செயன்முறையின் போது அவர்களால் முரண்பாடு நோக்கப்படும் விதத்துடன் அவர்களது நோக்குகளும் எதிர்பார்க்கக்கூடியன மாறுகின்றன.

பிணக்குதாரர்கள் முறைசார் மற்றும் முறைசாரா நீதிப் பொறிமுறைகளது பண்புகளை சமுதாய மத்தியஸ்த சபைகளுக்கு உரியனவாக நோக்கத்தலைப்படுகின்றனர். மேலும் பிணக்குதாரர்களது கருத்திலிருந்து அவர்களிடையில் முறைசார் மற்றும் முறைசாரா பொறிமுறைகளிடையான வித்தியாசம் புரிந்துகொள்ளப்படவில்லையென்பது தெளிவாகின்றது. இவ்வித்தியாசம் புரிந்துகொள்ளப்படாமையானது முறைசார் மற்றும் முறைசாரா செயன்முறைகள் மற்றும் விளைவுகளை சமுதாய மத்தியஸ்த சபைகளிடமிருந்து எதிர்பார்ப்பதனை விளைவாக்கியுள்ளது. மேலும் பிணக்குதாரர்களது திருப்தி மட்டங்களும் கூட சமுதாய மத்தியஸ்த சபைகளிடமிருந்து இவ்விரு பிரிவு எதிர்பார்ப்புக்களையும் கொண்டிருக்கும் வண்ணம் செல்வாக்குச் செலுத்தியுள்ளது.

பேச்சுவார்த்தைச் செயன்முறைகளை அடிப்படையாக கொண்டுள்ள தருணங்களில் இலங்கையிலுள்ள சமுதாய மத்தியஸ்த சபைகள் ஒருவருக்கொருவர் ஏற்றுக்கொள்ளக்கூடிய தீர்வுகளை அடைவதென்பதனில் விருப்பு அடிப்படையிலான கோட்பாடுகளை பயன்படுத்துகின்றன. அவர்களால் வழங்கப்படும் தீர்வுகள் சட்டத்திற்குப் பிணைந்தவையல்ல. சமுதாய மத்தியஸ்த சபைகளைப் பொருத்த மட்டில் சட்டத்துடன் பிணைந்திராத ஆனால் ஒருவருக்கொருவர் உடன்படுகின்ற நீதிகளும் தீர்ப்புகளும் பிணக்குதாரர்களுள் கலந்த ஒரு தாக்கத்தினைக் உருவாக்குவது காட்டப்பட்டுள்ளது. ஒரு புறம் பிணக்குதாரர்கள் தீர்வுகளை அடையமுன்னர் மேற்கொள்ளப்படும் ஆழமான கலந்துரையாடல்களையும் தமது கருத்துக்களை முன்வைப்பதற்கு வழங்கப்படுகின்ற சந்தர்ப்பங்களையும் வெளிப்படையாகப் பாராட்டுகின்றனர். மறுபுறம் தீர்வுகள் சட்டத்துடன் பிணைக்கப்பட்டதல்ல எனும் உண்மையானது இத்தீர்வு மற்றும் தீர்மானம் மேற்கொள்ளும் செயன்முறையானது தாம் எதிர்பார்க்கும் ஒரு மோதல் தீர்வு பொறிமுறையிற்குரிய 'கனத்தினை' அல்லது அதிகாரத்தினை கொண்டதல்ல எனும் நோக்கினையும் பிணக்குதாரர்களிடையில் உருவாக்குகிறது.

விளைவுகளுக்கு அப்பால், பிணக்குதாரர்கள் மத்தியஸ்த செயன்முறையை பாராட்டுகின்றனர் என்பதை ஆய்வு தெளிவாக சுட்டிக்காட்டுகின்றது. செயன்முறை தொடர்பான காரணிகள் செவிமடுத்தல், உள்ளூர் மொழிப் பயன்பாடு, கதைப்பதற்கு இடமளித்தல் மற்றும் மதிப்புக் கொடுக்கப்படல் என்பனவாகும். இக்காரணிகள் ஒரு மட்டத்திற்கு திருப்தியை ஏற்படுத்தியுள்ளதுடன் மத்தியஸ்த சபைகள் மீதான ஒரு விருப்பத்தினையும் ஏற்படுத்தியுள்ளன. சமுதாய மத்தியஸ்த சபைகளை அணுகியவர்கள் ஒரு தெளிவான தீர்வொன்றுக்கான எதிர்பார்க்கையினை கொண்டுள்ள அதே நேரம் பெற்றுக்கொள்ளப்பட்ட தீர்வுகள் எப்போதும் மத்தியஸ்த செயன்முறையிலிருந்து பெற்றுக்கொள்ளப்பட்டதாக பிரதிபலிப்பதில்லை. மேலும், மத்தியஸ்தர்கள் பெற்றுக்கொள்ளப்பட்ட தீர்வுகளின் எண்ணிக்கைக்கேற்ப தமது வெற்றியை நோக்கினாலும் பிணக்குதாரர்களது விளைவுகளின் மீதான நோக்கு மத்தியஸ்த செயன்முறை எவ்வாறு மேற்கொள்ளப்பட்டது என்பதுடன் இணைந்ததாக உள்ளது.

மத்தியஸ்தர்கள், பிணக்குதாரர்கள் அதே போல் சமுதாய மத்தியஸ்த சபைகளினது செயற்பாடுகள் என்பன ஒரே சமூக வலையமைப்பினுள் உள்ளன எனும் உண்மையானது நேர் மற்றும் எதிர்மறையான தாக்கங்களை உருவாக்குகின்றது. தமது அதே சமுதாயத்திலிருந்து மத்தியஸ்தர்கள் தெரிவுசெய்யப்பட்டமையினால் இவர்கள் உள்ளூர் உண்மை நிலைமைகள் மற்றும் சமூக-கலாச்சார விடயங்களில் சிறந்த புரிந்துணர்வினைக் கொண்டுள்ளமை எதிர்பார்க்கப்படலாம் என்பதுடன் பொதுவாக பிணக்குதாரர்கள், ஆண்களும் பெண்களும் இந்நபர்களுடனான செயன்முறைகளின் போது சௌகரியமாக உணர்ந்தனர். இருந்தாலும் சமூகத்தினுள்ளிருந்து உருவான சமுதாய மத்தியஸ்த சபைகள் எனும் போது சமுதாயத்தினுள் வலிமையாக உள்ள — மத்தியஸ்தர்கள் அதே போல் பிணக்குதாரர்கள் - சமுதாய அடிப்படையிலான மத்தியஸ்தத்தினது நோக்கம் மற்றும் உள்ளர்த்தத்தினை விடுத்து தமது ஆற்றலை காட்ட முற்படலாம். இவ்வலிமை சார் சமமின்மைகளால் பெரிதும் பெண்கள் மற்றும் தாழ் சமூக-பொருளாதார மட்டங்களிலுள்ள ஆண்களும் பெண்களும் பாதிக்கப்படக்கூடிய குழுக்களாவர். மேலும் சமுதாயத்தினது பொறுப்புடைமையானது தமது ஆற்றுகையின் சுட்டியாக அடையப்பட்ட தீர்வுகளை பயன்படுத்தி தமது 'வெற்றியை நிரூபிப்பதற்காக' தமது கடப்பாடுகளுக்கும் மேல் சென்று 'பலவந்தமான தீர்வுகளை' மேற்கொள்வதற்கு மத்தியஸ்தர்களைக் கொண்டு போகலாம்.

சமுதாய மத்தியஸ்த சபைகள் மீதான திருப்தி

பக்கச்சார்பு: பல பதிலளிப்பாளர்களும் முறைசார் நீதி சட்டங்களின் மீது மோசடி, வேறுபாடு காட்டப்படல் மற்றும் பக்கச்சார்பு தொடர்பான குற்றங்கள் தொடர்பாக கேள்வி எழுப்பினர். இது சமுதாய மத்தியஸ்த சபைகள் மீதான மக்களது நோக்கினை வடிவமைப்பதாக உள்ளது. பொதுவாக சமுதாய மத்தியஸ்த சபைகள் ஒப்பீட்டளவில் பக்கசார்பற்றதாக மற்றும் மோசடி குறைந்ததாக நோக்கப்படுகின்றது. இருந்தாலும் மத்தியஸ்தர்களது இன, பால், வயது, வகுப்பு மற்றும் சாதி என்பன இவர்கள் தமது குழுவினருக்கு பக்கச் சார்பாக உள்ளதாக காணப்படும் சந்தர்ப்பங்களில் திருப்தி மட்டங்களை பாதிப்பனவாக உள்ளன.

செலவு: பொதுவாக சமுதாய மத்தியஸ்த சபைகள் முறைசார் பொறிமுறைகளை விடவும் செலவு குறைந்தனவாக காணப்பட்டுள்ளன. எமது பகுப்பாய்வில், நாட்கூலி பெறும் தொழிலாளிகள் போன்ற தாழ் வருமான பிரிவுகளினை சார்ந்த சில பிணக்குதாரர்கள் இயலுமானவர்கள் சமுதாய மத்தியஸ்த சபைகளை விட நீதிமன்றங்களை விரும்புவதாக குறிப்பிட்டனரெனினும் தரவுகள் சமூக-பொருளாதார பின்னணியை மீறி மத்தியஸ்தத்தினை மக்கள் விரும்பினர் என்பதை காட்டுகின்றன.

நேரம்: முறைசார் நீதித் தொகுதிகளுடன் ஒப்பிடும் போது சமுதாய மத்தியஸ்த சபைகள் பிணக்குகளைத் தீர்ப்பதில் விரைவாக செயற்படுகின்றன. இருந்தாலும் சம்பவங்களது சிக்கலான தன்மையினைப் பொறுத்து காணி தொடர்பான பிணக்குகள் போன்றன தீர்வுகளை அடைவதற்கு கூடிய காலம் எடுப்பதாக நோக்கப்பட்டன.

மொழி: முறைசார் நீதித் தொகுதிகளில் இன்னும் ஒரு சவாலாக உள்ள தமிழ் மொழிப் பயன்பாடானது சமுதாய மத்தியஸ்த சபைகளில் இயலுமாக இருந்தமையானது முரண்பாடுகளைத் தீர்த்துக்கொள்வதற்கு சமுதாய மத்தியஸ்த சபைகள் கவரப்படுவதில் குறிப்பிடத்தக்க ஒரு காரணியாக அமைந்தது.

கலந்துரையாடலின் ஆழம்: மத்தியஸ்த செயன்முறைகளின் போது மேற்கொள்ளப்பட்ட ஆழமான கலந்துரையாடல்கள் தொடர்பாக பொதுவாக மக்கள் உடன்பாடான அனுபவங்களைக் கொண்டிருந்தனர். அவர்கள் விசாரணையினது மட்டத்துடன் திருப்தி கொண்டிருந்தனர். அவர்களது கருத்துக்களில் பிணக்குக்குரிய குழுவினர் இருவருக்கும் தமது துக்கங்களைப் பற்றி பேசுவதற்கு, விளக்குவதற்கு போதுமான நேரம் வழங்கப்பட்டிருந்தது.

நிதி தொடர்பான பிணக்குகள் தொடர்பாக ஆழமான கலந்துரையாடல்கள் பிணக்குகளில் ஈடுபட்டிருந்த குழுவினருக்கேற்ப வேறுபாட்டினைக் காட்டுவதாகவுள்ளது. மூன்று மாவட்டங்களிலும் ஆய்வுக்குட்படுத்தப்பட்ட சமுதாய மத்தியஸ்த சபைகள் தனிநபர்கள் மற்றும் குழுக்களைக் கொண்டதாக (சேமிப்பு மற்றும் கடன் குழுக்கள் பொன்ற) முறைசாரா கொடுக்கல் வாங்கல்களிலிருந்து முறைசார் வங்கிக் கடன்கள் வரையிலுமான பல்வேறு வகையான நிதி சார் பிணக்குகளது பெருமளவினை கையாண்டிருந்தன. நபர்களிடையான கொடுக்கல் வாங்கல்கள் மற்றும் நபர்களுக்கும் வங்கிகளுக்கும் இடையிலான கொடுக்கல் வாங்கல்கள் மத்தியஸ்த சபைகளால் எவ்வாறு கையாளப்படுகின்றன என்பதில் ஒரு தொடர்ச்சியற்ற தன்மை காணப்படுவதாக தரவு காட்டுகின்றது.

வட மாகாணத்தில் சமுதாய மத்தியஸ்த சபைகளது சேவைகளைப் பெற்றுக்கொள்ளல்

சமுதாய மத்தியஸ்த சபைகளது சேவைகளைப் பெற்றுக்கொள்ளக்கூடியதாக உள்ளமை, அருகில் உள்ளமை மற்றும் ஒப்பீட்டளவில் குறைந்த செலவு மற்றும் எளிய செயன்முறைகள் என்பன உண்மையில் வட மாகாணத்தில் பெருமளவு மக்கள் தமது பிணக்குகளை சமுதாய மத்தியஸ்த சபைகளுக்கு கொண்டு வருவதினை பெரிதும் விளைவாக்கியுள்ளது. பிணக்குதாரர்கள் அனைவரும் தெரிவு செய்து அல்லது ஒரு தெளிவான விளைவினை எதிர்பார்த்து சமுதாய மத்தியஸ்த சபைகளை அணுகுவதில்லை. சில பிணக்குதாரர்கள் பொலிசார் அல்லது நீதி மன்றங்களினால் சமுதாய மத்தியஸ்த சபைகள் சுட்டிக்காட்டப்பட்டு வருகின்றதுடன் மற்றும் சிலர் தீர்வுகளுக்குரிய சாத்தியங்களை ஆராயும் நோக்கில் அணுகுவதுடன் இன்னும் சிலர் ஒப்பீட்டளவில் இங்கு செலவு குறைவு என நம்புவதால் வருகின்றனர்.

சமுதாய மத்தியஸ்த சபைகளை பயன்படுத்த விளைகின்ற சமூக குழுக்கள் தொடர்பாக கருதும் போது எமது பகுப்பாய்வு வறிய மக்களே தமது பிணக்குகளைத் தீர்ப்பதற்காக அதிகம் அவற்றை அணுகுகின்றனர் என்பதனை ஒரு விதத்தில் எதிர்க்கின்றது. இருந்தாலும் நிதி நிறுவனங்கள் போன்ற உள்ளூர் அதிகாரம் கொண்டோர் தமது கடன் மீளச்செலுத்தல் விடயங்கள் தொடர்பான பேச்சுவார்த்தைகளுக்கான தளமாக அதிகம் சமுதாய மத்தியஸ்த சபைகளைப் பயன்படுத்துகின்றன. மேலும் பிணக்குக்குரிய தனிநபர்கள் சமுதாய மத்தியஸ்த சபைகளை அடைந்து கொள்வது எவ்வாறு என்பதனைத் தீர்மானிப்பதில் சமூக வலையமைப்புக்கள் மற்றும் சமூகத்தில் அவர்களது நிலைப்பாடு என்பன முக்கிய பங்கு வகிக்கின்றன.

பொதுவாக பெண்கள் வீட்டு வன்முறைச் சம்பவங்கள் உட்பட தாம் சார்ந்த பிணக்குகளிற்காக சமுதாய மத்தியஸ்த சபைகளை நாடுவதற்கு விரும்புகின்றனர். இருந்தாலும் சமுதாய மத்தியஸ்த சபைகள் தீர்வின் பின்னான ஆலோசனைச் சேவைகளை வழங்குவதற்கான கடப்பாட்டினைக் கொண்டதில்லை எனும் உண்மையானது சமுதாய மத்தியஸ்த சபைகளது ஒரு பலவீனமாக உள்ளதாக பெண்கள் தொடர்பான பிரச்சினைகள் சார்பாக இயங்கும் அமைப்புக்கள் நோக்குகின்றனர். மேலும் மத்தியஸ்தர்களால் சமூக மற்றும் கலாச்சார எண்ணங்கள் மற்றும் நம்பிக்கைகள் மீளவலியுறுத்தப்படுவதற்கான சாத்தியமானது சமுதாய மத்தியஸ்த சபைகளினால் வீட்டு வன்முறைச் சம்பவங்கள் கையாளப்படலில் மீண்டும் சிந்திக்க வேண்டிய தேவையினை எழுப்பியுள்ளது.

1. Introduction

Community-based mediation in Sri Lanka has a long history. It is often traced back in popular history to pre-colonial village councils or *Gam Sabhas*. Although mechanisms approximating these councils continued to function throughout the Portuguese and Dutch colonial rule, they became largely defunct during the British rule. If the enactment of the Village Communities Ordinance in 1871 by the British marked their colonial reconstitution, the Rural Courts Ordinance of 1945 laid the foundation for post-colonial attempts to reactivate community-centric mediation, particularly through the replacement of rural courts by Conciliation Boards (Gunawardana, 2011).

The sustained colonial and post-colonial interest in incorporating community-based dispute resolution mechanisms in Sri Lanka eventually led to the enactment of the Mediation Boards Act of 1988 and the coming into being of Community Mediation Boards. Today there are 329 Community Mediation Boards in Sri Lanka, one in every Divisional Secretariat (for a more detailed overview of history in this respect see Gunawardana, 2011 and Alexander, 2001).

With the setting up of the Jaffna Divisional Secretary level Community Mediation Board in January 2006, Community Mediation Boards were extended to the Northern Province. At present 32 Community Mediation Boards operate in the Northern Province covering every Divisional Secretariat in the Northern Province with the ones in Mullaitivu being the most recently constituted. The Community Mediation Boards in the Northern Province are at different stages of evolution and the study found that in general, in terms of access and awareness, the longer standing boards perform better.

Apart from accessing the formal justice mechanisms, such as the judiciary and the police, the study found that people in the Northern Province reach out to Grama Niladharis (GN), military officials, religious and community leaders as well as Civil Protection Committees (CPCs) to facilitate dispute resolution. The CPCs set up by the civil society with the Police have a history of being rooted in security operations during the war, and comprise 'key' people in the community such as the President of the Women's Rural Development Societies/Rural Development Societies (WRDS/RDS), school principals, and police officials. This study found that military personnel stationed or operating in the area, often not in uniform, intervened in civilian matters. They are also mobilised by certain segments in the community who leverage the power and fear of the military to facilitate dispute resolution. A deeper analysis and understanding of these phenomena and forms of dispute resolution are beyond the scope of this current study and remain a gap, especially in the post-war context in the Northern Province.

The Community Mediation Boards in the Northern Province function within a political economic and social context shaped by war, militarisation, displacement and numerous other related problems. For instance, what could be termed as a large scale housing crisis is taking place. According to UNHABITAT¹ 143,268 houses are considered 'damaged' in the Northern Province. The lack of secure and remunerative employment and livelihoods that has also precipitated high levels of indebtedness, poses further challenges for war-affected families.

A recent study conducted by the Centre for Poverty Analysis (CEPA) notes that 86% of the surveyed households in the districts of Kilinochchi, Mullaitivu and Jaffna are in debt (Romeshun, Gunasekara & Munas, 2014). Of the surveyed households, 50% indicated that they are unable to repay their loans with 70% of them indicating that their household income is insufficient to enable repayment (ibid.). Further, there is a 600% rise in the density of lending institutions per square kilometre in the

1 UNHABITAT, 2013. Conflict Damaged Housing Programme, Commitment and Progress Review as at 30th June 2013

Northern Province and easy access to microfinance for micro and small enterprises (MSEs) (Central Bank of Sri Lanka, 2013). Both lenders and borrowers are approaching Community Mediation Boards to resolve financial or loan related disputes.

Another significant legacy of the war is conflicts and disputes pertaining to land. Many people lost deeds and other proof of ownership while many others lost possession because of prolonged forced absences, and this led to disputes over ownership on their return. Such land related disputes are amongst those commonly brought before Community Mediation Boards.

Many respondents identified for this study also noted that another set of disputes increasingly coming before Community Mediation Boards in the North are those linked with women, especially violence against women. The respondents were of the opinion that the types of issues women face have changed with the end of the war. While harassment and the use of alcohol by men and resultant negative impacts on women were the main problems that women faced earlier, at present, extra marital affairs, drug abuse and sexual torture were named as serious problems that women face. Some respondents attributed this change to a sense of social upheaval and erosion of social morality in a post-war context. The implications of Community Mediation Boards dealing with issues such as violence against women, are discussed at length further below.

2. Methodology

2.1 Research Questions

Community Mediation Boards, as hybrid local level dispute resolution mechanisms constituted under the auspices of the state and run by community members, are a relatively recent phenomenon in the Northern Province. Given that the Northern Province is currently in a state of transition from a state of war (post-2009), and experiencing multiple and complex economic, social and political changes that invariably affect community dynamics, the research questions and the methodology accommodated the contextual complexity embedded in the Province. The main research question guiding this study was: How do those who access Community Mediation Boards perceive and experience Community Mediation Boards in the Northern Province?

The study expanded on the main research question with three sub-research questions:

1. *What are people's expectations of Community Mediation Boards with regard to dispute resolution?*

The study assumed that people's perceptions of Community Mediation Boards are largely shaped by their expectations regarding the nature of justice sought from Community Mediation Boards. The extent to which a given Community Mediation Board resolves a dispute, as subjectively assessed by the disputing parties throughout the mediation process, would determine whether or not their expectations were met. This question explored what people expect of Community Mediation Boards in terms of resolving their own dispute(s).

2. *What factors explain people's satisfaction/dissatisfaction with the mediation process and outcome?*

Satisfaction or dissatisfaction with Community Mediation Boards is contingent on people's expectations of 'justice' as well as their experiences and perceptions of 'processes' and 'outcomes'. This sub-research question assumes that conceptualisations of 'process' and 'outcome' may be derived inductively based on perceptions of the disputing parties.

3. *Who accesses mediation boards?*

Given that Community Mediation Boards are a relatively new mechanism in the Northern Province, in comparison to other parts of Sri Lanka where they have existed since 1990, it was important to understand the ascribed status of disputant users, which is defined by socio-economic factors such as ethnicity, class, gender and caste. These factors play a role in shaping people's expectations and also their satisfaction levels in relation to the Community Mediation Boards.

2.2 Approach and Sample

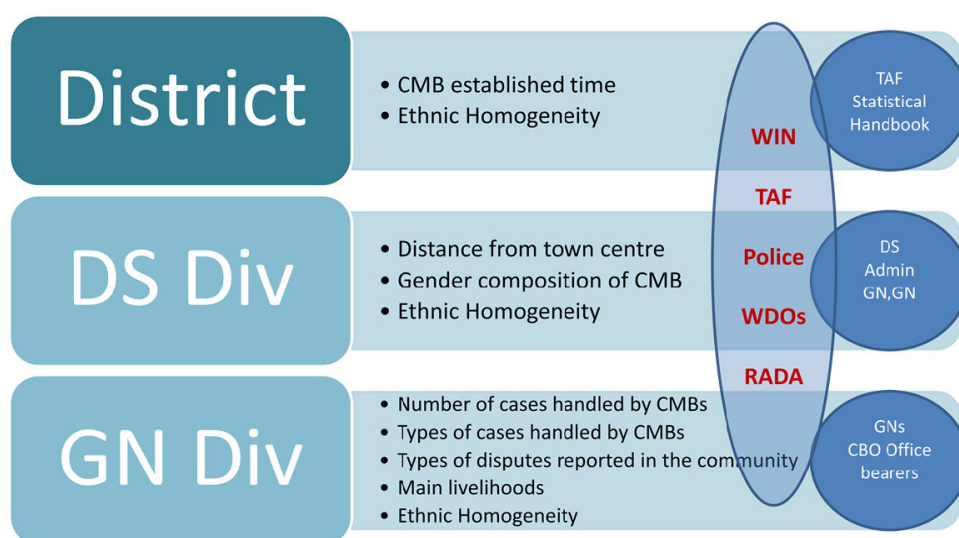
Given the objective of adopting an inductive, ground-up approach, the study opted for a qualitative approach, focusing on a limited sample of purposively selected cases and disputants. A secondary literature review was conducted to get a broader understanding of the concepts used in the study. However, rather than following hypotheses derived from this review, the study used an exploratory approach, with the literature mainly informing the analysis and interpretation of data.

The sampling criteria were derived from the experience and expectations of TAF and CEPA's past experience of working in the Northern Province and were fine-tuned following the initial scoping visit that the CEPA staff members carried out and a consultation with TAF team members following the field visit. In order to guard against bias, the sample did not include mediators or chairpersons

of Community Mediation Boards or mediator trainers attached to the Ministry of Justice, and neither were any of them involved in the selection of respondents.

Further, as the figure below illustrates, the sampling process incorporated different data sources such as statistical handbooks, different levels of government officials, key figures at the community level and representatives from non-government agencies in order to triangulate the data. Following the initial field visit and subsequent discussion with TAF, the study team felt that consulting with an organisation such as Women in Need which works specifically on women's issues would strengthen the sample identification process, especially with respect to including disputes involving domestic violence that are directed towards Community Mediation Boards.

Figure 1: Sampling Matrix



The purposive sampling process took place at three main levels, District, Divisional Secretariat (DS) and Grama Niladhari (GN) division, using different criteria at each level. Based on experience from previous studies and literature, it was assumed that these criteria were sufficient to capture a range of mediation experiences. At the district level, the aim was to capture a mix of Community Mediation Boards that had been in operation for varying lengths of time and ensure representation from both ethnically homogenous and heterogeneous (wherever possible) districts. At the DS level, the criteria were: distance from the district town centre, gender composition of the boards, and ethnic homogeneity. At the GN level, criteria such as number and types of cases handled by Community Mediation Boards, types of disputes reported as well as variations in livelihood and ethnic background (wherever possible) of disputants were used.

Table 1: Final sample by district, DS division and GN division

District level	DS level	GN level
Jaffna	Jaffna Kayts Nallur	Navanthurai, Analatheevu, Ariyalai, Kolombuthurai
Mannar	Mannar	Eluthoor, Thaalvupadu, Thalaimannar South
Mullaitivu	Maritime Pattu Thunukkai	Hijrapuram, Theeththakarai Mallawi, Thirunagar, Yogapuram Central

The sample comprised a total of 46 respondents, of which 26 were women, drawn up from six DS divisions in three districts as shown in the tables below. The research tools included informal conversations, semi-structured questionnaires, and one group discussion with Women in Need in Jaffna and participant observations.

Table 2: Disputants by location and sex

District	Location - DS	Number	Sex	
			Male	Female
Mannar	Mannar	14	04	10
Jaffna	Kayts	09	06	03
Jaffna	Jaffna	06	04	02
Mullaitivu	Thunukkai	10	04	06
Mullaitivu	Maritime Pattu	05	02	03
Jaffna	Nallur	02	00	02
Total		46	20	26

Table 3: Type of case by district

Type of Issue	Mannar	Jaffna	Mullaitivu	Total
<i>Seettu</i>	04	01	00	05
Land	03	01	05	09
Cash	04	08	06	18
Boundary	02	01	00	03
Assault	00	01	00	01
Business	00	02	00	02
Domestic violence	00	03	02	05
Multiple	01	00	01	02
Total	14	17	14	45

4. Community Mediation Boards in the Northern Province

4.1 Characteristics of Community Mediation Boards in the Northern Province

Attempts to define the 'formal' and 'informal' justice systems are always fraught with the dilemma of having a character that is local in its orientation but at the same time of being able to address a very broad and complex range of disputes and issues brought before it (UN Women, UNICEF and UNDP, 2009). For the purposes of this study, mechanisms outside the state, such as the law enforcement authorities and the judiciary, are recognised as informal mechanisms. While IJS vary in their degree of formality (ibid), Community Mediation Boards in Sri Lanka have been characterised as an alternative form of dispute resolution (The Asia Foundation, 2012), which technically renders them an informal justice mechanism. However, in reality, especially from the point of view of the disputants, Community Mediation Boards in Sri Lanka embody characteristics of both the formal and the non-formal mechanisms as shown by the table below (Table 4).

The study shows that disputants tend to attribute characteristics of both the formal and non-formal justice mechanisms to Community Mediation Boards. Further, from the point of view of the disputants, the distinction between the formal and informal mechanisms is blurred. This blurring is a result of their own thinking and experience with the two types of mechanisms and is further complicated by the fact that in most instances, the disputants have accessed or are accessing both types of mechanisms in their search for a suitable forum.

Literature suggests that characteristics such as "legal or normative framework, state recognition, appointment and interaction, control and accountability mechanisms, and systems of monitoring and supervision, including the maintenance of case records and the implementation of referral procedures" (UN Women, UNICEF and UNDP, 2009, p. 8) determine the (in)formality of justice mechanisms. Apart from these, respondents in the current study identified other characteristics that help understand how Community Mediation Boards are positioned by them on the formal-informal spectrum. These include the setting and the procedures adopted as well as identities or social standing of the mediators. For example, a retired senior government functionary acting as a mediator tended to add to the aura of formality to the Community Mediation Boards. This blurring of distinction between formal and informal mechanisms influences the expectations and satisfaction levels of disputants in relation to Community Mediation Boards as discussed below.

Table 4: Disputants' perceptions of formal and non-formal characteristics of Community Mediation Boards

Formal characteristics	Non-formal characteristics
Issuing of a summons letter.	The mandated interest based mediation approach results in Community Mediation Boards not passing judgments or decisions.
The setting—the physical arrangement, including seating of the members of the board and the disputants and the ambience.	The sessions that are more like discussions than adhering to a rigid protocol like in a court.
A regular, set meeting schedule.	
The location of the Community Mediation Boards sessions—often outside the village.	Use of a public space not associated with formal justice processes such as court premises.
The mediators (in general) are respected people within the community.	Mediators are from the community and in most cases are known to the disputants.
Recognition of and referral to the boards by the formal mechanisms such as the police and courts.	

Experiences and expectations of Community Mediation Boards are also coloured by people's past associations with mediation or informal justice processes in the area. During the war years, due to the absence or lack of access to courts or lack of faith in them, people in many parts of the Northern Province turned to NGOs, the LTTE, Peace Committees, religious leaders, the Grama Niladhari and the police to resolve their disputes (CPA, 2003). The present analysis shows that disputants tend to compare the current Community Mediation Boards with previous 'mediation like' experiences or engagements that they had. For example, some respondents in Mullaitivu interviewed for this study referenced the mediation boards (*inakka saphai*) that were managed by the LTTE. The LTTE administered mediation boards from 1984 to 1992 (Sivakumaran, 2009, p. 494) mainly as a precursor to the establishment of its own judicial system. However, the mediation boards were not considered successful by the LTTE as explained by the chief of its legal and administration wing in an interview in 2004 (*ibid*). He claimed that the main reasons for failure was the absence of a legal code on which to base adjudication and the lack of legal training and knowledge of the mediators.

CPA (2003) reports that in the past—since 2002 with the Cease Fire Agreement and the opening of the LTTE political offices in the government controlled areas—these offices handled cases of domestic violence and substance abuse. The involvement of the LTTE in dispute resolution varied according to district and type of case. Further, the LTTE had referred other disputes to the State structures such as the courts and police. The mediation boards that the respondents in this current study refer to were constituted as village committees by the LTTE, with the LTTE's local leaders appointing leading individuals to the committee. These committees were mandated to deal with village level disputes and to the extent that they were popular or effective, may have had something to do with the fear of the severe punishments meted out by the LTTE's judicial and policing bodies (Sivakumaran, 2009, Terpstra and Frerks, 2015). The CPA study further notes that the LTTE did manage to effectively address issues of alcohol and domestic violence. These experiences clearly continue to colour people's present expectations of Community Mediation Boards:

Community Mediation Board was functioning well during LTTE time. Community Mediation Board used to impose their decisions with force during the LTTE period but now they don't do that. Now they just write a non-settlement letter. People don't respect the decision of the Community Mediation Board now. Even though people

come to an agreement at the Community Mediation Board they don't abide by it once they come out. Both sides will have their side of the story so they will not come to an agreement but Community Mediation Boards have to make a decision and ask them to abide by it. (KPI, Thunukkai)

Since the mediators and disputants as well as the processes followed by Community Mediation Boards are embedded within the same social fabric, the unequal relations of power within it may be reproduced within the Community Mediation Boards. This creates both positive and negative impacts. Given that mediators are chosen from within the community they can be expected to have a good understanding of local realities and socio-cultural nuances. This can be conducive to engendering a sense of trust amongst disputants and fostering accountability among the mediators to the community to the extent that their legitimacy as 'successful' mediators hinges upon being seen to be solving disputes and thereby living up to expectations. In this sense, mediators from Community Mediation Boards may be relatively more accountable to local communities than agents of formal dispute resolution and justice mechanisms such as courts or police whose accountability is defined largely in institutional or bureaucratic terms rather than in social terms.

However, the social embeddedness of Community Mediation Boards can also mean that the powerful within the community—mediators and disputants alike—may impose themselves thus subverting the very spirit and purpose of community-based mediation. For example, if the mediators are from the dominant caste groups, then there is a chance that patterns of discrimination against marginalised caste groups evident in society are recreated in the mediation processes. Further, those who have powerful political connections within and outside the community have a higher chance of either dominating or defying Community Mediation Boards, for example, ignoring requests to be present at a mediation.

Further accountability to the community can also translate into mediators going beyond their mandate and attempting 'forced settlement' in attempting to 'prove success' by using the number of settlements as an indicator of performance. A forced settlement goes wholly against the purpose and spirit of mediation. This study proves that attitude can have a particularly negative impact on disadvantaged segments of the population, especially women.

The extent to which Community Mediation Boards are in competition with or mainly complementary to other community-based justice mechanisms (Valters, 2013), such as local religious or political party leaders for example, or agents of state exercising an (informally) extended mandate, such as the Grama Niladhari for instance, can also determine how mediators and Community Mediation Boards function.

The Sri Lankan model of Community Mediation Boards operates on the principles of interest-based mediation. An important characteristic of this approach is that it is not intended, in theory at least, to determine guilt or innocence or pass judgments on past or present events. Rather, interest-based mediation tries to discern the root causes of the dispute and enable disputants to find a mutually acceptable solution through a process facilitated by an ostensibly independent third party. One of the important implications here is that both parties have to agree to the settlement before the dispute is considered resolved. Further, no lawyers or agents are involved and these mediated settlements are not legally binding and cannot be enforced in a court of law. Finally, these settlements last as long as the parties abide by their terms, if the settlement is breached by one party, one or both disputants can return to the Community Mediation Board.

The principles mentioned above—in particular not passing judgments and settlements that are not legally binding—seem to create mixed reactions within disputants with regard to Community Mediation Boards. On the one hand, disputants clearly appreciated the in-depth discussions prior to reaching a settlement and the space given to them to air their views (this is discussed further in the following sections). On the other hand, the fact that the settlements are not legally binding creates a perception among the disputants that the settlements and the decision making process does not carry the ‘weight’ or authority that they expect of a dispute resolution mechanism.

This fact is closely tied to the point discussed above of disputants viewing Community Mediation Boards both as part of the formal mechanism and, in practice, as an informal mechanism, thus blurring boundaries. The quote below shows that those who considered Community Mediation Boards to be part of the informal mechanism were disappointed by their lack of authority and the mandate to enforce settlements. Past ‘mediation-like’ experiences of disputants, referred to above, also play a role in strengthening this feeling of dissatisfaction and disappointment.

Only I go to the Community Mediation Boards at many instances. Community Mediation Boards sent a letter through the GN last time. They came and said that they don't have the money to pay. Community Mediation Board told me "if your opponent does not attend the Community Mediation Board meeting we cannot do anything". Further they said "We can't act like the police"...The way Community Mediation Board is operating is good but some people do not attend meetings. Community Mediation Board should be able to give them pressure to attend the meeting. There are many who are suffering like me. (MAN, 11)

Community Mediation Boards are subject to formal regulation given that they are established and are expected to operate as per the provisions of the Mediation Boards Act. But in practice the process followed maybe at variance with what is laid out in the Act. For instance while it is stipulated that the Chairperson should select the panel of mediators based on the disputants’ preference (see Siriwardana, 2011, p. 36 for details on the mediation process), our analysis shows that this is not always the case. In Kayts, for example, the mediation process adhered to this principle while in Mannar and Jaffna, the disputants were not given the opportunity to voice their preference for a mediator in their panel. While we could see that these practices may have evolved based on practical considerations such as ease of appointing panels bearing in mind the need to balance relatively large caseloads with giving the disputants choice of mediators, in certain circumstances these irregularities may lead to damaging outcomes. For example, in Mannar the perception that certain mediators use their authority to be part of panels that concern disputants known to them is reinforced given the lack of adherence to the procedures set out in the Act.

An important characteristic of Community Mediation Boards is that both mediators and disputants are from the same communities or in relative close social proximity to each other. The identity of mediators becomes all the more important because of this proximity. In Mannar and Jaffna town, where Community Mediation Boards hear disputes from diverse ethnic and religious communities, disputants highlighted the importance of ensuring that the Community Mediation Boards reflect the diversity of community identities. Incidents such as the one illustrated in the quote below, create a negative picture about the Community Mediation Boards in disputants’ minds. Further, the legitimacy of the whole process and the outcome may be undermined by these negative perceptions. On the other hand, the perception that a particular Community Mediation Board is not balanced or is biased is also enough to undermine the process and its outcomes.

Other thing is when they are inquiring they should not speak racially. Once he asked me whether I am a Muslim. I told him "it's irrelevant to the case so just start the inquiry". They should remove these types of people and appoint new people. (JAF, 03)

4.2 Access

Unarguably, their accessibility, proximity and relatively lower costs and simpler procedures have resulted in a number of people in the Northern Province bringing their disputes to Community Mediation Boards. In Thunukkai, for example, the magistrate court operates only once a week and for most cases the disputants have to access the courts in Mullaitivu town, close to 80 km away. Therefore, they find the Community Mediation Board which operates within the DS very accessible.

The decision to go before Community Mediation Board is influenced by a complex web of situational and subjective factors and does not necessarily always imply better processes or outcomes compared to other mechanisms, formal or informal. But needless to say, the expectation or perception disputants have of securing a favourable outcome is a crucial factor in the choice of forum, formal or informal.

Disputants' preferences or motivations for selecting a particular type of dispute resolution mechanism are also mediated by the circumstances that they find themselves in. For example, the ability to access law enforcement and judicial mechanisms and their perceived quality, the type of dispute, the strength of community based mechanisms such as religious committees and identity based considerations such as ethnicity or caste, were amongst the considerations which influenced the choice of mechanism chosen for dispute resolution during the period of the war in the Northern Province. Further, this choice was also mediated by broader socio-political factors such as the presence of the LTTE during the war (CPA, 2003).

Procedures and norms used in informal justice mechanisms such as Community Mediation Boards are often moulded by local cultural and social relations. As discussed above, this is a double-edged sword with both positive and negative implications but this does enable addressing disputes over specific local cultural or religious practices that the formal justice system cannot address. These may include, for example, witchcraft and sorcery, behaviour around sacred places, marital norms, and beliefs in the spiritual dimensions of acceptable and unacceptable behaviour (UN Women, UNICEF and UNDP, 2009). One such example from our study is the case of a *sooniya*, a form of sorcery or witchcraft, which is believed to be an evil cast against someone. In one case, illustrated by the quote below, it was against the son of a disputant and the case was taken to the Community Mediation Board because the police refused to act on the matter.

The police was biased towards them. I told the police everything that happened and I told that I have recorded everything and burned a CD. They refused to listen to me; the police officers scolded me for believing that witchcraft would affect the business. He said that he would put me in jail. The police officers spoke to me in a disrespectful manner. They did not want to send the case to courts, because they were biased. (MAN, 03)

In terms of social groups that tend to use Community Mediation Boards, our analysis also supports the contention that the poor do access them most often to resolve their disputes. In terms of costs, Community Mediation Boards are more accessible relative to the formal justice mechanisms.

We cannot go to the courts because it's costly. We have to pay the lawyer Rs. 10,000

for one meeting. I don't have money to go to courts. I did not take any effort to come to courts fearing it will cost me a lot. (KYT, 02)

However, we found evidence that it is not only the poor who use the Community Mediation Boards. For example there was an instance in Thunukkai where a local *mudalali*, a shop owner, had taken ten people to the Community Mediation Board and he was very satisfied with the overall process. Further, other local power-holders like financial institutions are increasingly using the Community Mediation Boards to re-negotiate loan settlement terms. While Community Mediation Boards were set-up to complement the formal justice system and enhance people's access to justice, the reality is that in the Northern Province banks and financial institutions are increasingly resorting to them for credit recovery purposes.² When banks and financial institutions approach Community Mediation Boards, the power asymmetries appear to work in their favour. Some banks in the study area employ an officer in-charge of loan recovery who brings cases to the boards. The research team found no evidence that Community Mediation Boards were taking measures to limit banks from accessing Community Mediation Boards.³

Much like in the case of powerful formal institutions like banks, our analysis does show that their social networks and standing play an important role in determining the nature of access individual disputants have to Community Mediation Boards. While those disputants who do not have any links with the mediators can certainly access the boards and be assured that procedures are followed, for those who have linkages or who create linkages with the mediators during the hearing, mediation processes can become more convenient. For example, a woman who had agreed to repay a *seettu* transaction had arranged to pay the woman mediator in the panel, who in turn was supposed to give the cash to the other party. The woman lives in the debtor's village, so instead of going to the location where the Community Mediation Board is conducted, they have come to this arrangement. Those who have stronger networks outside the community and a higher social standing clearly had a higher awareness about the Community Mediation Boards and therefore it can be surmised that their access rates are higher. For example, the shop owning *mudalali* from Thunukkai referred to above claimed that he knows all the mediators in the board.

Another important group that accesses and uses Community Mediation Boards is women, sometimes from single-headed families. The fact that women who are from the same community, familiar with local culture and tradition are mediators appear to make it easier for women to approach the boards to resolve their disputes. However, the seeping in of traditional norms and socio-cultural values into the mediation process can result in negative experiences for women disputants.

Historically there have been a few female mediators though the mediation bodies set-up by the LTTE did have women on them. While women are often hesitant to approach formal mechanisms such as the police on their own—and in fact may also be prevented from doing so by male members of the household—this is not necessarily the case with Community Mediation Boards. Despite some instances of women, especially those from female-headed households, being harassed either by the other disputants or by the law enforcement authorities, in general women seem comfortable in accessing Community Mediation Boards. Moreover, the fact that the disputants are given the option of choosing a mediator—including being able to select a woman mediator where available—and request for a change in mediators if women disputants find it difficult to work with male mediators, renders the Community Mediation Boards more accessible to women.

2 In terms of civil disputes, Community Mediation Boards are mandatorily required to mediate disputes under the value of Rs. 250,000. This applies to financial transactions as well. However, if disputing parties desire, disputes of any monetary value can be presented to Community Mediation Boards.

3 In Colombo and other urban centres, Community Mediation Boards tend to allocate a particular day in a month for such cases.

There were 6 people in the Community Mediation Board. They asked us to choose two people. My wife has chosen a woman (a teacher) and the opponent has chosen an elderly person...These two mediators were there till the end. (KYT, 01)

There will be a female mediator if there is a woman involved in the case. It's good to have women in the Community Mediation Board. We cannot share all the problems with everyone. Allowing women to share their issues with other women is a good practice. (MAN, 07)

Women expressed the view that they are more comfortable sharing their views with female mediators. This becomes particularly important in dealing with cases involving family disputes, domestic violence or even for disputes over financial transactions. Women are also given the option to speak only to the female mediators if necessary, such as when the discussion becomes too sensitive to be shared with male mediators. In certain instances, men admitted that they prefer to send their wives to Community Mediation Boards as opposed to the police or the courts. Further, women were also of the opinion that men in general prefer not to approach places like Women in Need to resolve family disputes because such organisations are perceived by men as being on the woman's side. In this case, going for mediation is preferred specially by the men.

However, the handling of domestic violence cases by Community Mediation Boards raises a few concerns. A recurring issue that literature on Community Mediation Boards in Sri Lanka identifies is the tendency to reify cultural values and reduce issues like domestic violence to issues that are trivial, common and private (Kodikara and Piyadasa, 2012; Jayasundere and Valters, 2014) as the extracts below illustrate. Further, women are particularly vulnerable when aggression or threats are used to push for a resolution as shown by the cases reported from Mannar especially. There is a tendency within Community Mediation Boards to marginalise women and not adhere to principles of women's equality, the feminist legal theories argue. However, there are other schools of thought which argue that mediation processes provide an empowering and more effective process for domestic violence related disputes while some others argue that the quality depends on a case by case basis (Jayasundere and Valters, 2014).

The Community Mediation Board said "we will not separate you. You can make peace in our presence or else you can talk to each other and get together." (NAL, 02)

He said he does not want to live with me. Mediators advised him by saying, "You are still young to understand about family life. It will be too late when you realize it. So don't take hasty decisions. You listen to us". (NAL, 03)

Another issue attached to Community Mediation Boards handling cases of domestic violence was the fact that Community Mediation Boards are neither mandated nor equipped to provide counselling services that such cases required. Community Mediation Boards are not mandated to provide counselling services themselves or referring disputants to counselling. However, organisations such as Women in Need felt that the nature of cases of domestic violence is such that prolonged engagement, follow up and counselling support is needed to address the issue.

However, irrespective of both formal and informal measures such as the Prevention of Domestic Violence Act No. 34 of 2005 where cases can be taken to magistrate courts, Community Mediation Boards and organisations handling and supporting cases of domestic violence or violence against women, there are still ample cases that do not get reported or addressed as shown by the extract below. While this study cannot provide any generalising statements about the effectiveness of Community Mediation

Boards in resolving domestic violence cases, the fact that victims continued to be denied justice and redress is a concern.

We live in a deserted place in Ariyalai only three families live here. No men in these houses. My husband also goes on hires (as a driver) in the nights. There are people who are involved in illegal sand mining. They have kept people to watch over if the police are coming. Those men are troubling us in the night. We don't have safety for our children. They consume alcohol and peep through the windows and throw stones at the roof. They listen to our conversations and shout it out when our children go on the road. If the children refuse to talk to them, they tease them in the road. Children are afraid to go to school. I informed the child protection authority and police also but no use. They steal our phones. We cannot keep anything near the windows. They take away our children's clothes that we put to dry. They know very well that my husband goes out in the night because he takes hires to transport sand. But I don't tell husband anything about it. (NAL, 01)

4.3 Expectations and experiences of process and outcome of Community Mediation Boards

Not all the disputants approach Community Mediation Boards by choice⁴ or with a clear expectation of outcomes. Some disputants are referred to Community Mediation Boards by the police or courts while others approach them to explore the possibilities of a settlement and yet others because they believe it to be relatively inexpensive. One respondent said, "I did not have an idea about Community Mediation Boards before I went there. Some people told me that the issue could be solved at the Community Mediation Board without spending money" (MAN, 04). But it is not just the prospects of a lower financial burden but also reduced opportunity costs from resolving a dispute through negotiation rather than aggravating it or potentially escalating the conflict which also attracts people to Community Mediation Boards. In the words of one respondent, for example: "We were expecting to finish the issue without any conflicts" (KYT, 01).

What also emerges from the study is that people turn to Community Mediation Boards because the negotiated nature of dispute resolution is also attractive to disputants whose case or claims may not fall within the boundaries of legality. For instance, a study conducted by CPA (2003) notes that in the case of land disputes, while those whose occupation of land was irregular or undocumented preferred approaching the LTTE's dispute resolution system while those with formal legal titles were more likely to approach the formal judicial mechanism.

It is also important to note that there is awareness of the mixed nature of outcomes and different levels of satisfaction with Community Mediation Boards, and people's expectation are case or dispute specific. One respondent notes for instance:

Some people say that Community Mediation Boards solve the issues taken there. Some people say that Community Mediation Boards do not solve the issue but just postpone the case. According to my experience with the Community Mediation Board, I believe that my issue could be solved at the Community Mediation Board. (MAN, 14)

The nature of the case colours the expectations of disputants in different ways. For example, people

⁴ The Mediation Boards Act makes it compulsory for particular disputes set out in the Act itself to be mediated before being presented in courts of law. While this is a mandatory clause, it is not mandatory for disputants to appear before the Community Mediation Boards which provide a choice to disputants. In case of non appearance of either disputing party, the dispute is deemed a non settlement.

seem to expect disputes over financial transactions to be resolved faster than other cases brought before the Community Mediation Boards—the normal formula being that both parties settle for a mutually acceptable installment plan. Yet again, this is especially true of financial transactions that are informal or undocumented in nature, which are more likely to be brought before Community Mediation Boards rather than formal courts or the law enforcement system. The way other community members settled their disputes at Community Mediation Boards and the track record of the boards in resolving cash transactions also shapes these expectations.

I cannot go to police because I don't have any evidence. We don't have the time to spend in courts. I will have to spend about Rs. 100,000 just to get the Rs. 19,500 back. (MAN, 03)

I have not gone to the Community Mediation Board for this case as yet. Will be going only next week. The Community Mediation Board will ask them to pay on a monthly basis. The people are not afraid of the police but they are afraid of the Community Mediation Board because they will send them to courts. (MAN, 03)

But the expectations of the disputants in cases relating to land issues are slightly different from those related to cash transactions. Due to their awareness about the difficulties in dealing with land issues, they do not expect a quick settlement as in the case of financial transactions.

Severity of the case and the history of the case too affect these expectations. If an 'old' case is going to the Community Mediation Boards after several failed attempts at resolution especially through formal mechanisms, their level of expectations are lower compared to a new case which is heard at Community Mediation Boards for the first time. As noted earlier, their experiences in dealing with the other dispute resolution mechanisms also shape the expectations at Community Mediation Boards.

Perceptions and expectations of the Community Mediation Boards are not static; they change as the engagement during the mediation process advances and they shift in keeping with changing perceptions of the dispute itself. As previously underlined, cases or disputes where evidence is weak or well below the threshold demanded in court—typically in the case of undocumented possession of land or an informal financial transaction—tend to be brought to Community Mediation Boards. Even if the dispute is not resolved by the boards, some lenders in financial disputes are satisfied with the mediation because the process generates evidence of the transaction, which they believe can then be used in the formal legal system. This indicates that not all disputants are aware that the documentation of the mediation process cannot be used in courts.

The depth of discussion during the mediation process also helps disputants understand the disputes better. This is illustrated well in the case of one respondent who went to the Community Mediation Board to resolve her land issue with the initial expectation to resolve it. But after several sittings the disputant realised that settling land issues at Community Mediation Boards is not easy and changed her expectation but understood the importance of generating the necessary documents needed to seek justice in the courts.

We are so satisfied and feel as if we have won the case because we have the evidence now. (MAN, 04)

The knowledge of and experience with the formal justice mechanisms also shapes expectations. This particular respondent's past experience in dealing with courts means he sees other options even as he sought mediation.

One of our friends gave me a land in Mannar. We built a house there. Suddenly someone else came and claimed that land too. The case is in the High Courts. Vavuniya courts ruled out that the land belongs to our opponent so we filed a case in high courts. When you look at the deed, the way our land is situated proves that this land is not his...If the Community Mediation Board says that the land belongs to him we will not let go. We will take the next step. I don't have experience in going to courts for any other conflicts. (MAN, 14)

4.4 Experiences of the Process and Satisfaction

Perceptions or expectations of mediation change as the engagement during the mediation process itself—their initial expectation of mediation prior to engaging with Community Mediation Boards—change as the issue is handled by the board. The procedural systems used in alternative dispute resolution mechanisms such as Community Mediation Boards are usually in response to the context that they operate in rather than set down as rigid protocols. This space for adaptation in the process has an inherent value for disputants irrespective of a satisfactory outcome. There are instances where the disputants are clearly not satisfied with the outcome (it may have even ended in non-settlement) but the process related factors such as being listened to, being given the space to talk and being respected were valued by the disputants and brought some level of satisfaction and created favourable impressions towards Community Mediation Boards.

As discussed in the section on characteristics of Community Mediation Boards in Sri Lanka, the approach used in the current context is interest-based mediation. There are certain elements that were highlighted by the disputants as satisfactory elements of the mediation process, which can be clearly linked to the principles attached to interest-based mediation. The following quotation is from a middle-aged man from an island off Kayts, with relatively low level of education, who engages in one-day fishing and he has interacted with the Community Mediation Board regarding a jewellery pawning issue. He clearly articulates the fact that the mediators are chosen by the disputants legitimises the decision or settlement that is reached at the end of the process. Further, the focus on the parties coming to an agreement on the settlement, based on an in-depth discussion involving both parties also creates a sense of satisfaction in the process within disputants.

The Community Mediation Board is operating well. Their decisions are democratic because the mediators are chosen by the people. They allow both parties to speak face to face. If opponent disagrees it will be an issue so they allow both parties to speak and come to an agreement. Therefore they will accept the decision without any issue. But it's not like that in the police station. Their decision will be biased so the arguments among both parties will continue. (KYT, 01)

Bias and Corruption

Many respondents questioned the legitimacy of the formal justice, alleging corruption, discrimination and bias. These are seen as inter-related with a large number of respondents speaking about corrupt practices or political patronage and influence leading to biases within the police in settling or resolving disputes. This, in turn, plays a role in shaping people's perceptions of Community Mediation Boards.

The Community Mediation Board is 99% better than the police. Police officers take bribes. They support the people of their choice. They get everything free from us before going to their village. We have to give dry fish and fish worth of Rs. 10,000 every time

they go on vacation. But when we go to the police station they don't take notice of us. They don't treat people with respect. They don't know how to talk respectfully. There is no justice in the police. The police officers are not that educated. They are not aware of the law. They are just misusing the power. They take the side of the people who bribe them. Just a bottle of arrack would do. I feel it's better to close down the police station because the purpose of them being here is not met. Some police officers are relatives of our villagers so they always are biased towards them when inquiring. (MAN, 03)

We cannot get justice in the police. Police station is good for the people who have money. (MAN, 09)

Community Mediation Boards appear to be perceived as relatively less biased and uncorrupt. We did come across instances of disputants describing their experiences of bias, which we will discuss below but a variety of factors and experiences lead to the perception of Community Mediation Boards as being relatively unbiased. This perception is largely influenced by the experiences during the process of mediation rather than by the outcome. Even when the outcome of the mediation process is not in favour of themselves, people believed that the process of mediation was unbiased. The fact that Community Mediation Boards allocate equal and sufficient time for all parties in the dispute to speak about their grievances in front of the mediators generates a positive impression of impartiality. In addition, parties are also allowed to ask questions during the mediation process and there is also space for people to explain their circumstances. For instance, mediators pay attention when a disputant mentions s/he is sick which does not happen in the formal justice system, particularly the police.

In general, Community Mediation Boards are seen to resolve disputes peacefully without using violence or aggressive forms of inquiry. Treating the disputant with due respect and kindness was seen as a factor that helped build the legitimacy of Community Mediation Boards. People are well aware that the members of Community Mediation Boards are from the community itself and it is unavoidable that they are related or well known to some of the disputants. Despite this, community members perceive Community Mediation Boards as unbiased because of the way the cases are handled. In most cases the mediators and members do not discuss the cases outside the sessions even though they are part of the community.

It's our own people. We can speak in Tamil with them. They treat us with respect. They listen to us and give us enough time to talk. There are chairs at the Community Mediation Board. They make both parties sit next to each other and they sit on the opposite side. (MAN, 03)

The Community Mediation Board is resolving problems that cannot be solved by the police. The police will ask us "if they are not paying back can we hit them and get the money?". The Community Mediation Board will solve the issue in a peaceful manner. Police will sometimes assault the offender. If the offender admits their fault the police will request us verbally to go to the Community Mediation Boards. They don't give us any written document. I am not too sure if they have any connection with the Community Mediation Boards. (KYT, 07)

But it is important to note that the experiences of many disputants do raise questions of Community Mediation Boards being biased. Certain Community Mediation Boards, especially the Mannar town Community Mediation Board, appear to be forcing disputants to come to a settlement by creating a fear about referring them to courts in case of a non-settlement. Some disputants from poorer socio-

economic backgrounds who do not have access to networks, and especially women, feel threatened and vulnerable. Often they fear attending Community Mediation Boards when a particular mediator is present who forces for settlement.

In fact the pressure of mediation can even be so extreme that two disputants from our sample reported having attempted suicide because of the way mediation was carried out and the personal threats and feelings of humiliation they were subjected to. This raises fundamental questions about the entire process and structure and whether settlement at any cost has become the centre of mediation.

Courts have sent the case to Community Mediation Board. The case has been in the Community Mediation Board for three months. Two members of the Community Mediation Board are very biased, they wrote a letter stating that I have to pay the whole amount at once and got my signature by force. One member⁵ has his relatives from Pesalai who have got married (to people) in Thalai Mannar so he takes their side during inquiries. (MAN, 10)

When it comes to financial disputes, in general parties seem to be asked to come to a quick settlement where the respondent is usually asked to agree on an installment plan and not given sufficient space to state their grievances. When banks summon the loan recipients, the Community Mediation Board may even treat the respondents as offenders and expect them to consent to a settlement that includes an interest payment without a sufficient consultation with the respondent to understand the context. For example, our discussion with loan recipients in Thunukkai revealed that the banks often fail to come to collect the loan repayments on time, which they had agreed to do when loans were disbursed. The recipients believe that banks do this on purpose to increase interest gains. Lack of discussion at the Community Mediation Board about these sorts of scenarios also contributed to perceptions of bias and partiality.

Cost

Cost is a major factor that motivates people from across different socio-economic backgrounds to access mediation boards over formal justice systems. A Report on UN women, UNICEF and UNDP states "IJS are not always preferred as the least expensive option; this depends on the context as some IJS charge fees". However, the cost of informal justice systems is relatively less in Sri Lanka (Siriwardana, 2011).

In our analysis, even though some disputants from lower income categories, such as daily wage labourers, maintained that the economically better off prefer the courts over Community Mediation Boards, the data suggests that irrespective of socio-economic background there was a preference for mediation. In comparison to the formal justice system, the costs associated with accessing Community Mediation Boards are negligible. It usually requires only the cost of transportation to the mediation venue. On the other hand, accessing the courts is much costlier, especially owing to payments to the lawyers.

We cannot go to the courts because it's costly. We have to pay the lawyer Rs. 10,000 for one meeting. I don't have money to go to courts. I did not take any effort to go to courts fearing it will cost me a lot (KYT, 02)

Further, the scale of the dispute may also render the formal system too expensive. For example, when

⁵ Names of individuals have been removed, to ensure anonymity.

a relatively small amount of money is involved, taking it to formal justice mechanisms may not be worthwhile.

Time

Compared to the formal justice system, Community Mediation Boards act faster in settling the disputes. Research indicates that more than half of mediation disputes are concluded in one mediation session (56%), and a further 20% are concluded within two sessions. In terms of the length of the process from registering a complaint to a settlement or referring the case to the courts, 33% of cases are disposed of within 30-60 days and 99% of cases within one year. This is one of the key ways in which mediation services are, in fact, improving access to justice within the communities served (Siriwardene, 2011).

The court system takes months or years to decide on disputes due to the existing backlog, the bureaucratic procedures and the need for a higher threshold of evidence (UN Women, UNICEF and UNDP, 2009; Goldberg, 2005). Respondents from our study shared experiences of faster settlement with Community Mediation Boards but their perception of time was mostly in relation to that taken by courts or police to resolve disputes.

There is a land issue in courts for past 30 years. This case was filed when I was small. But the Community Mediation Board solves the issues within few sittings. (MAN, 04)

The process of inquiry itself appears faster in Community Mediation Boards than in the formal system and disputants are generally able to predict the time needed for the inquiry.

Language

Given that Community Mediation Boards are accessed by a wide range of people from different socio-economic backgrounds, it is vital that those who participate in the process communicate effectively. Ability to use Tamil in Community Mediation Boards, as opposed to the formal justice system, where it still remains a challenge, was a significant factor that makes Community Mediation Boards attractive to resolve disputes. The continued need for Sinhala in the formal justice system even in the overwhelmingly Tamil-speaking Northern Province leaves people feeling alienated, particularly with the police. And trust becomes an issue even in the instances where an interpreter is made available.

An in-depth understanding of problems and disputes is essential before a solution is proposed or a settlement is reached and this is not possible when there is a language barrier.

I sold the boat to my brother in law and he agreed to pay the balance 40,000. Someone has cut his ear last night and they are searching for me also for keeping him at my house for safety. Cannot go to the hospital and we called the GS and he informed the police. But they did not come. The police came only after calling 119. We cannot go to the police directly due to many reasons. We can't speak Sinhalese. Police officers do not know Tamil. (KYT, 01)

Depth of discussion

An important feature of the community mediation process that disputants commented upon is its dialogic nature where the decision is co-created by the mediators and the disputing parties. Generally people have positive experiences with regard to the depth of discussion taking place during the

mediation process. Since the mediators are from the community and known to the people, they feel comfortable during the proceedings unlike in the more formal systems.

The main features of the in-depth discussion process as described by respondents are set out below:

- The mediators make sure both parties get a chance to speak by establishing ground rules such as 'one person speaks at a time' and no interruption allowed.
- The disputants are not allowed to talk to each other during the inquiry so that the conversation becomes less intense and smooth. This is explained to the disputants at the beginning of the discussion to ensure that they are aware of it.
- In general, the disputants feel that both parties are given equal and sufficient amount of time to explain their problems.
- When tense situations arise, they are managed by sending one disputant out and discussing the issue with both parties separately or by halting the discussion and sending both parties out.

This environment makes both parties listen to each other's views, which would not take place outside the mediation process and may lead to a positive change in perceptions about each other. Not only does it help understand opponents' cases, it also helps understand their own cases better. This in the long run makes for more sustainable settlements.

While the above points illustrate general trends, there are some case specific issues that need to be highlighted. Each case that Community Mediation Boards receive has its unique complications and requires different kinds of approaches to understand them. Respondents felt that the cases involving land disputes require several sittings and take much more time compared to cash transactions. Even though Community Mediation Boards take on land issues, their capacity to inquire and settle the issues seems to be limited. Land disputes often go for a prolonged period due to various complications such as the involvement of multiple parties, lack of evidence and the need for co-operation from various government authorities. The disputants and the KPIs stated that in the community mediation processes, the disputants are allowed time to bring/collect evidence, however, this flexibility is not sufficient in land related cases where compiling evidence is extremely complex.

The depth of discussion in relation to financial disputes also shows a variance depending on the parties involved. Community Mediation Boards across the three districts studied deal with a large number of different types of financial disputes ranging from informal transactions involving individuals or collectives (such as savings and loan groups) to formal bank loans. The data shows that there is an inconsistency between how person to person transactions and person to bank transactions are being handled by the Community Mediation Boards. In bank to person transaction related disputes, the settlement is often preconceived and formulaic such as waiver of interest, repayment in installments or a re-negotiation of repayment terms. It seems like the purpose of mediation is defeated in these situations, especially because some respondents felt that the discussion is not lengthy enough for them to prove their side of the story. There are instances where the mediators dominate the discussion and impose settlements on disputants. As explained in the section on bias, in certain instances, as reported by disputants, Community Mediation Boards blindly take the side of banks and fail to inquire sufficiently into the views of the loan recipient. More often than not banks dominate the mediation; as the balance of power is tilted in their favour, their proposals are privileged in the settlement and the borrowers are perceived as offenders. Further, banks successfully create a sense of guilt among the borrowers.

The bank manager asked us to pay the balance in three installments within three weeks. They did not ask whether we could pay this amount within three weeks. The bank manager insisted that we pay within three weeks and the Community Mediation Board's verdict was that we pay the balance in three installments within three weeks. (THN, 03)

4.5 Outcomes of Mediation

As far as disputants are concerned the settlements reached are not always reflective of what they may have gained from the mediation process. Hence, while mediators may perceive success in terms of the number of settlements, disputants' perception of outcomes is linked to how the mediation process took place. Even while they may not be satisfied with the outcome (the dispute may have ended in non-settlement even) process related factors such as being listened to, being given the space to talk and discuss and being respected can generate a sense of satisfaction and favourable impressions regarding Community Mediation Boards. Indeed, irrespective of the nature of settlement, many respondents in the study claimed that they would recommend Community Mediation Boards to others underlining that the mediation process was more meaningful to them than the settlement.

Indeed, even expectation of outcomes i.e. the settlements, are connected to the nature of the dispute and the type of case. For example, the disputants in cases involving financial transactions value a settlement letter that can be used as 'evidence' to hold the other party accountable to repayment.

I received part of the money back because I went to the Community Mediation Board. I am very satisfied with the function of the Community Mediation Board, as I was able to recover part of money. I expected my problem to be solved when I initially went there. Seventy five percent of my problem was solved by attending Community Mediation Board. (KYT, 06)

Family issues, on the other hand, are much harder to settle satisfactorily but nevertheless, given the space the mediation process creates for parties to express themselves: the obligation to listen to each other, and mediators' interventions that can enable a better understanding of perceptions and even reflection, it opens the possibility for attitudinal change towards each other. The following quote, from a disputant who sought the help of the Community Mediation Board to address the domestic violence she suffered from, underlines this possibility of change:

Usually my husband does not listen to anyone. But after speaking to them there was a change in him. He was a bit upset that he had behaved in such a way that others (outsiders) had to advise him. (NAL, 01)

5. Conclusions

Community Mediation Boards were established in the late 1980s as an alternative form of dispute resolution. The study finds that certain characteristics of Community Mediation Boards—especially their proximity, accessibility, ease of navigation including use of local language, lower costs and higher predictability, participatory and dialogic process—attract disputants to seek to resolve their disputes through them rather than approach the formal justice systems. Indeed, these advantages, which are relative to the problems that burden the formal justice system, are amplified when mediators are respected individuals from the community with a good understanding of local socio-cultural dimensions and act without bias.

On the other hand, Community Mediation Boards can also reflect many of the problems faced by formal justice system including elite capture, biases of mediators, risk of being pressurised into settlements, delays in resolving certain kinds of disputes, especially land related, which undermine the very ethos of interest-based mediation. The very strength of Community Mediation Boards, that they are rooted in local social milieu and are sensitive to the socio-cultural dynamics in which they operate, can also be their Achilles heel since these very factors can reinforce relations of dominance and perpetuate cultural constructs disadvantageous to vulnerable segments of society like women or marginal caste groups.

Disputants associate characteristics of both the formal and informal justice mechanisms with Community Mediation Boards. While Community Mediation Boards do not always follow the norms laid down in the Mediation Boards Act, disputants also harbour expectations that are beyond the mandate of Community Mediation Boards. While disputants value the process-related factors linked to interest-based mediation, they seem to prefer legally binding decisions as outcomes, which can only be offered by the formal justice system. Sometimes, these two may contradict each other, for instance the Community Mediation Boards are not established to deliver legally binding judgments and nor do they have the force of legal authority; rather they facilitate participants to explore options, make decisions and reach mutual agreement based on common interests.

The lack of authority to enforce settlements is seen as a shortcoming of Community Mediation Boards; and there is an expectation, particularly on the part of those who see themselves as 'winners', that settlements arrived at by the Community Mediation Board ought to be legally binding. The study underlines that disputants seek the best of both forums—the methods, approaches and techniques of Community Mediation Boards that enable in-depth discussion, listening and respect and the legally binding and enforceable nature of rulings of the formal justice system. This aspiration for a hybrid forum, combining informality in process but formality in the form of binding settlements, presents a challenge irreconcilable within the framework of either forum but serves to highlight what drives people towards resorting to either or indeed both forums.

Even though a settlement or a solution is expected in general, not all the disputants approach Community Mediation Boards with clear expectations of 'justice'. The expectations are not always linked to outcomes and they may also be linked to the process as well as past or concurrent experiences with mediation or other formal and informal dispute resolution mechanisms. The expectations are also contingent upon the type of case, scope and history of the case.

Notwithstanding the merits of the process, the study also finds that the process itself is not uniform and consistent across all the Community Mediation Boards. For example, members of certain Community Mediation Boards seem to consider reaching a settlement as the primary measure of successful

mediation. But using the settlement rate as an indicator of the 'success' of Community Mediation Boards may eat away, in the long run, at the purpose of the Community Mediation Boards. The study team recommends that the mediation training should be sensitised further to emphasise the importance of following the process, as much as striving to arrive at a solution.

The study also finds that people's expectations change during the mediation process, especially when it comes to cases requiring several sittings. The depth to which a disputant understands the case and the scope for mediation to facilitate a settlement leads to changes in expectations. Similarly, each case has its own unique dynamics to which the board has to respond. Hence, perceptions of outcomes or success cannot be judged by the fact of settlements alone.

As with expectations, satisfaction is also not always contingent upon outcome. The study strongly suggests that often the participants may be satisfied with the process but not the outcome. Even if the dispute is settled in favour of the other party, the 'losing' party does not necessarily consider the decision to be biased. Furthermore satisfaction is also relative and always weighed against experiences of dealing with other formal as well as informal mechanisms. Alternative options that are available for dispute resolution, cost, process related factors such as language, voice and participation, and general reputation and perception of the Community Mediation Board in question also influence satisfaction. Therefore, when making decisions on Community Mediation Boards, the context specific and relative nature of these factors should be considered.

The ethnicity, gender, age, class and caste of the mediators affect the levels of satisfaction. The absence of Muslim mediators in certain locations leads to perceptions of bias in mediation, the process or outcome notwithstanding. Women appear to be happier with the process when a woman mediator is present. In some locations individuals from the dominant class or caste dominate mediation boards and this affects both the process and outcome of mediation. The appointment of mediators should take this into consideration and be sensitive to these power dynamics.

The disputants choose Community Mediation Boards to resolve disputes for a whole range of reasons including shortcomings with other forums, especially the formal justice system, lower costs, proximity and accessibility, or a sense of comfort with mediators who are known or from the same social milieu and thus are expected to understand local sensitivities and how to address them. This also translates into a form of accountability for mediators, and as a result they perform in the best interest of disputants. This could be driven by an interest in maintaining their own credibility or conversely to arrive at a settlement somehow. Disputants may also prefer Community Mediation Boards when there is a known mediator whom they think can be influenced in order to secure a favourable settlement.

The study underlines that women prefer accessing Community Mediation Boards compared to other formal or other informal mechanisms. However, the implications of taking cases of domestic violence to Community Mediation Boards with their focus on settlement could prejudice the cause of justice. Arguably, the very idea of interest-based mediation and negotiated settlements is at odds with an idea of justice based on absolute standards. Indeed, the thrust of such mediation is a mutually acceptable settlement and is not necessarily the application of standards and norms tending towards justice. This raises questions as to whether pervasive and deeply entrenched harms like violence against women will even be considered injustice. Committing such cases to Community Mediation Boards could render them 'minor' disputes and even legitimise them. Therefore, we see a need to revisit the handling of domestic violence cases by Community Mediation Boards.

However, it is important to note that women do not necessarily access Community Mediation Boards only or even primarily to deal with the issues related to family disputes or domestic violence, but also

to deal with other issues or at times to represent the males. This may be a signal of confidence the women have in accessing the Community Mediation Boards. Factors such as the presence of women mediators, ability to choose a mediator, the ambience of the Community Mediation Board influence this preference.

The study challenges the general perception that it is primarily the poorer and disadvantaged sections of society that access alternative dispute resolution mechanisms such as Community Mediation Boards. The poor and disadvantaged indeed access Community Mediation Boards but it is not only because they are poor but because of other perceived advantages already outlined.

The better off and dominant sections as well as powerful institutions like banks and financial institutions are using Community Mediation Boards. The latter, a wholly unexpected finding, raises concerns over equity and institutional capture given their overriding power and the luxury of accessing the Community Mediation Boards for free often puts borrowers in a disadvantageous position. Given the level of indebtedness in the Northern Province, this is particularly problematic. Banks' unimpeded access to Community Mediation Boards not only limits the time for other cases and disputes but can also lead to serious accountability problems, especially when mediators are also borrowers. This raises a question of whether there should be some form of restriction or control on banks in accessing the Community Mediation Boards in the form of charging them for the services given or restricting them to a particular day of the month. These control mechanisms should take into consideration the fundamentals of Community Mediation Boards and the intended target groups of Community Mediation Boards.

Finally, Community Mediation Boards ease the burden on courts and the formal justice system and also provide those unable to access the formal system for various reasons access to some form redressing grievances and disputes. While there are many positive dimensions of Community Mediation Boards in the North, ensuring that this access to a service translates into access to justice requires continued investment in both amplifying the strengths, and addressing the weaknesses of Community Mediation Boards as underlined by this study.

Bibliography

- Alexander, N. (2001). From Communities to Corporations: the growth of mediation in Sri Lanka. *ADR Bulletin*, 4.
- Brown, S., Cervenak, C., & Fairman, D. (1998). *Alternative Dispute Resolution Practitioners Guide*. Retrieved from <https://www.usaid.gov/sites/default/files/documents/1868/200sbe.pdf>
- Center for Policy Alternatives. (2003). *Informal Dispute Resolution in the Northern Province East and Puttalam*. Colombo: Center for Policy Alternatives.
- Central Bank of Sri Lanka. (2013). *Economic and Social Statistics of Sri Lanka*. Colombo: Central Bank of Sri Lanka.
- Goldberg, S. B. (2005). How Interest-Based, Grievance Mediation Performs over the Long Term. *Dispute Resolution Journal*, 59 (4), 8.
- Gunawardana, M. (2011). *A Just Alternative: Providing access the justice through two decades of Community Mediation Boards in Sri Lanka*. Colombo: The Asia Foundation.
- Jayasundere, R., & Valters, C. (2014). Women's Experiences of local Justice: community mediation in Sri Lanka. *Theories in Practice (JSRP Paper 10)*.
- Kodikara, C., & Piyadasa, T. (2012). *An Exploratory Mapping of Domestic Violence Intervention Services in Sri Lanka*. Colombo: ICES.
- Romeshun, K., Gunasekara, V., & Munas, M. (2014). *Life and Debt Assessing Indebtedness and Socio-economic Conditions of Conflict Affected Housing Beneficiaries in Jaffna, Kilinochchi and Mullaitivu Districts*. Colombo: Centre for Poverty Analysis.
- Siriwardhana, C. (2011). *Evaluation of the Community Mediation Boards Program in Sri Lanka*. Colombo: The Ministry of Justice.
- Sivakumaran, S. (2009). Courts of Armed Opposition Groups: Fair Trials or Summary Justice? *Journal of International Criminal Justice*, VII (3), 489-513.
- Terpstra, N., & Frerks, G. (2015, September). *Rebel Governance in Sri Lanka's 'Uncleared' Territories during the 1990s and 2000s*. Paper presented at the 9th Pan-European Conference on International Relations, Giardini Naxos, Sicily, Italy. Retrieved from https://www.ris.uu.nl/ws/files/14408043/Conference_paper_Rebel_governance_in_Sri_Lanka.pdf
- The Asia Foundation. (2012). *Community Mediation in Sri Lanka*. Retrieved from <http://asiafoundation.org/resources/pdfs/SLMediationFINAL2012withmap.pdf>
- UN Women, UNICEF, UNDP. (2009). *Informal Justice Systems: Charting a Course for Human Rights Based Engagement*. Retrieved from <http://www.undp.org/content/dam/undp/library/Democratic%20Governance/Access%20to%20Justice%20and%20Rule%20of%20Law/Informal-Justice-Systems-Charting-a-Course-for-Human-Rights-Based-Engagement.pdf>
- Valters, C. (2013). *Community Mediation and Social Harmony in Sri Lanka*. Retrieved from <http://www.lse.ac.uk/internationalDevelopment/research/JSRP/downloads/JSRP4-Theories-in-Practice-Sri-Lanka.pdf>

Annex 1: Case descriptions

Case Type	Location	Description
Business	Jaffna District Jaffna DS Division	A businessman bought tobacco from the male respondent without paying. This resulted in the individual being unable to redeem jewellery he had previously pawned. The buyer came only for the second Community Mediation Board meeting, and did not pay the money. With the help of his police connections, he did not follow through with the Community Mediation Board requests.
	Jaffna Division Kayts DS Division	A businessman had bought tobacco from the male respondent and is yet to pay him. The opponent attended only one Community Mediation Board meeting. The court ordered him to pay back Rs. 10,000 monthly, but he has paid only in part.
Cash	Jaffna District Jaffna DS Division	The male respondent took a loan from the People's Bank to expand his shop. The business failed and he is now working as a casual labourer and has fallen behind on his loan repayments.
	Jaffna Division Kayts DS Division	The male respondent purchased a boat, paying for it in part with a gold chain. He bought the boat in partnership with another person who left. This combined with a loss in business meant that he could not pay back the remainder in time.
	Jaffna Division Kayts DS Division	A male businessman has bought tobacco from the respondent and not paid him back. The respondent has asked for the money back and received death threats. The opponent has police connections and does not follow through with the requests of the Community Mediation Board.
	Jaffna Division Kayts DS Division	The male respondent is a casual labourer who borrowed a gold chain and lent it to the opponent to assist him in starting up a business. The opponent has not returned the chain. The chain was recovered through the Community Mediation Board.
	Jaffna Division Kayts DS Division	The respondent is a casual labourer, who took out a fisheries loan to redeem jewellery. The redeemed jewellery was given to the respondent's sister in law's neighbour who was to pay back the loan in return. She has only paid back the loan in part.
	Jaffna Division Kayts DS Division	The opponent borrowed a boat from the female respondent and did not pay the amount in full. The respondent received the money through a third party after lodging a complaint with the Community Mediation Board.

Jaffna Division Kayts DS Division	The female respondent borrowed a gold chain from a relative and lent it to the opponent. He was supposed to return the chain in 6 months, but failed to do so. The respondent's husband is a fisherman who works on the basis of casual labour. He returned the chain after the Community Mediation Board meetings.
Mannar District Mannar Town DS Division	The female respondent borrowed money for her son's business which failed. She is now unable to continue paying the interest and said she would pay the amount of capital borrowed. The opponent did not agree, and spoke in a humiliating way to the respondent. The opponent took the case to the Community Mediation Board.
Mannar District Mannar Town DS Division	The female respondent pawned some land for some emergency money and failed to redeem it. The opponent went to the Community Mediation Boards to settle the problem.
Mannar District Mannar Town DS Division	The female respondent borrowed money on interest to help her son start a shop. Initially repayments were made on time, and there was no need to get anything in writing. Now her opponent has stopped paying back the money and the respondent has no written proof that the money was lent. She took the case to the Community Mediation Board.
Mannar District Mannar Town DS Division	The female respondent owes her opponent money. She has paid part of the interest, but has more to pay. The opponent took the case to the Community Mediation Board and the respondent paid a portion of the money owed after the first meeting. She sells short eats for a living and her husband is a salesman in a shop.
Jaffna District Nallur DS Division	The male respondent took a case related to his mosque to the Community Mediation Board. A member of the mosque had borrowed money. He passed away without repaying the amount. None of the deceased's family members are willing to take responsibility without evidence. The creditor has given the respondent's name to the Community Mediation Board.
Mullaitivu District Thunukkai DS Division	The respondent is a representative of the RDB bank who attends Community Mediation Board meetings involving their bank loan cases.
Mullaitivu District Thunukkai DS Division	The female respondent had obtained a loan from the RDB bank to put up a tube well, but had stopped paying on time because the loan officer did not come to collect the money regularly. As a result the bank gave her name to the Community Mediation Board.

	Mullaitivu District Thunukkai DS Division	The female respondent obtained a loan from the RDB bank, but when the loan officers did not come regularly, she was unable to make the monthly payments. Then there is additional interest which has to be paid because of the delay. The bank gave her name to the Community Mediation Board. The bank accepted their fault, but did nothing to compensate for it.
	Mullaitivu District Thunukkai DS Division	The male respondent owes a shopkeeper money for supplies he bought from him. The shopkeeper took the case to the Community Mediation Board. The respondent was in the process of building a house, and did not have the money on time to pay the shopkeeper at that point. He will receive the rest of his housing grant and pay back the shopkeeper.
	Mullaitivu District Thunukkai DS Division	The female respondent is a casual labourer in a rice mill, her husband abandoned her. She took out a loan for the running of her shop. When the shop ran at a loss, she was not able to pay back the loan and the bank lodged a complaint with the Community Mediation Board.
Land	Jaffna District Jaffna DS Division	The male respondent's brother's land has been claimed by another person, the opponent came for the first meeting, and was asked to bring the deed for the next meeting. He did not attend any of the other Community Mediation Board meetings thereafter.
	Mannar District Mannar Town DS Division	The male respondent had a problem with his father's land. The land was divided and sold without the knowledge of the respondent's father. False deeds were used in the sale and the respondent took the case up with the Community Mediation Board.
	Mannar District Mannar Town DS Division	The primary deed for a section of the male respondent's land was destroyed during the war. There is now a dispute over ownership of a part of the land. His father was supposed to receive a share of the land. The case was taken to the Community Mediation Board.
	Mannar District Mannar Town DS Division	The female respondent has given a section of her land to her niece. Her niece has encroached beyond her section of the land and is also claiming that the respondent's toilet is hers. The respondent has received threats from her niece's husband and now does not cultivate on her land out of fear. She took the case to the Community Mediation Board.
	Mullaitivu Division Maritimepattu DS Division	The male respondent sold a section of his land. A relative is claiming the remaining land belongs to them and the respondent does not have the deed to prove ownership. The person he sold the land to is asking for their money back with interest. The opponent who is asking for the money and the interest, took the case to the Community Mediation Board.

	Mullaitivu Division Maritimepattu DS Division	The female respondent mortgaged her land, but was unable to redeem the land because of her displacement. The respondent sold another piece of land to redeem the land she mortgaged, but the opponent refused to give the land back. The opponent also damaged the hut the respondent is currently living in. The case was taken to courts and to the Community Mediation Board by the opponent.
	Mullaitivu Division Maritimepattu DS Division	The female respondent's brother sold her land without her knowledge. The disputant took the case to the police and the police referred the case to the provincial council. The respondent took the case to the Community Mediation Board.
	Mullaitivu District Thunukkai DS Division	The female respondent bought a piece of land before displacement. After re-settlement the seller claims that the land was never sold, and that she had only mortgaged it because of her child's medical expenses. The opponent took the case to the Community Mediation Board.
	Mullaitivu District Thunukkai DS Division	The female respondent is involved in cattle and poultry rearing, as well as paddy cultivation. Her neighbour is laying claim to the respondent's land. The land was distributed by PLOT and she does not have the permit or the deed for the land. The opponent took the case to the AGA, who referred the case to the courts. The courts requested that the case be taken to the Community Mediation Board.
	Mullaitivu District Thunukkai DS Division	The female respondent's neighbour is laying claim to a section of land which belongs to the respondent's daughter. The respondent had to go to the Community Mediation Board because her daughter is abroad. The police refused to look at any of the documents and the opponent took the case to courts and to the Community Mediation Board.
<i>Seettu</i>	Jaffna District Jaffna DS Division	The female respondent borrowed money to lend to another member in the <i>seettu</i> group. The opponent has paid back neither the <i>seettu</i> money nor the capital and interest for what was borrowed. The respondent believes that the opponent has the means to pay back the money she owes.
	Mannar District Mannar Town DS Division	The female respondent recommended another lady for this <i>seettu</i> , who collected the <i>seettu</i> money without paying. The lady in charge of collecting the <i>seettu</i> money complained to the Community Mediation Board, and since the respondent recommended the lady, she has to pay for the <i>seettu</i> money owed.
	Mannar District Mannar Town DS Division	The female respondent and her husband were cheated when paying <i>seettu</i> money. They were using the money to rebuild their house. The opponent is financially stable, but is refusing to pay the money. The court sent the case to the Community Mediation Board. She filed a false assault case against the respondent by bribing the police.

	Mannar District Mannar Town DS Division	The female respondent owed money and had to pay a lease on a vehicle. She collected <i>seettu</i> money but was unable to pay for the <i>seettu</i> . Her opponent took the case to courts and to the Community Mediation Board.
	Mannar District Mannar Town DS Division	The female respondent has collected <i>seettu</i> money without a license and not paid for it, the court sent the case to the Community Mediation Boards. The respondent also has debtors who are yet to pay their <i>seettu</i> money to her, and she wants to receive that money, if she is to pay back what she owes. She faced verbal abuse at the Community Mediation Board and an instance where she was slapped by another woman was disregarded by the Community Mediation Board.
Boundary	Jaffna District Jaffna DS Division	The neighbour is claiming part of the male respondent's land, and is not allowing surveyors to measure the land. The neighbour attempted to build a wall on the respondent's land.
	Mannar District Mannar Town DS Division	The male disputant and his family have been living on this land for generations. The deed for the land was lost after displacement and they did not receive another when they re-applied. The opponent built a toilet which encroached onto the respondent's land. The opponent is now building a wall which also encroaches onto the respondent's land. There is a health problem because of the toilet and the respondent's granddaughter contracted an infection and died. The GS recommended that the case be taken to the Community Mediation Board.
	Mannar District Mannar Town DS Division	There is a problem with the deeds. The opponent has produced an original deed for the respondent's land. The respondent's deed is damaged and not valid. The opponent filed the case with the high courts, which he then withdrew.
Family Dispute	Jaffna Division Kayts DS Division	The female respondent's brother in law and husband had an issue with a cash transaction. The respondent's sister hit her. The case was resolved in the Community Mediation Board. They also mention a dispute where their relatives were drunk and attacked an old man on the road. The brother in law, the brother and the husband of the respondent was involved in this.
	Mullaitivu Division Maritimepattu DS Division	The husband and wife had a dispute. The husband claims that the wife is ill and cannot support herself or their children without his support. The wife wants a divorce after he assaulted her while drunk. She filed a police report and is confident that she can live and raise the children alone. They had other problems in addition to these. The police took the case to the Community Mediation Board.

	Jaffna District Nallur DS Division	The female respondent had problems with her husband, who was not giving her even a modicum of freedom, had a drinking problem and an extra martial affair. She wanted to take him for counselling, and WIN recommended the Community Mediation Board.
	Jaffna District Nallur DS Division	The female respondent had problems with her husband—he was drinking and assaulting her—after they adopted a baby, to the disapproval of his parents. He has filed for divorce in courts and married another woman. She filed a case through WIN. The case was also taken to the Community Mediation Board, by the husband.
	Jaffna District Nallur DS Division	The female respondent took the case to the Community Mediation Board after her husband's family demanded a dowry. They did not allow the registering of the marriage until part of the dowry was paid. Her husband agreed with them and he left her repeatedly. The respondent first took the case to the police, and the police referred them to the Community Mediation Board.
	Mullaitivu District Thunukkai DS Division	The male respondent took the case to the Community Mediation Board. There was conflict between him and his wife because of her mother and brother and now she wants a divorce. They filed a report with the police claiming that he stole money from them, and the police assaulted him.
Multiple	Mannar District Mannar Town DS Division	The female respondent owns three boats used for fishing, with hired labourers working on it. One of the labourers has borrowed money from the respondent, and is also creating problems for her son. In another dispute a boy has practised witchcraft on her boat. She has taken the second case to the Community Mediation Board and is planning to take the first case as well.
	Mullaitivu District Thunukkai DS Division	The male disputant asked his neighbour to cut palmyrah tree which was on the neighbour's land because the palmyrah nuts were falling onto his land. He took the case to the Community Mediation Board. He has also complained about people who have bought things from his shop without paying. Another case he took to the Community Mediation Boards was because of a loan he had given, and the debtor had not paid back neither the capital nor the interest. He has also taken cases related to land, cash transactions and child abuse. He also goes for Community Mediation Board meetings on behalf of others to provide support.



While Community Mediation Boards have a long history in Sri Lanka, dating back to 1990, the establishment of these boards in the Northern Province was relatively recent, with the first Community Mediation Board being set up in Jaffna in 2006. At present there are 329 Community Mediation Boards in operation in the country, covering all the divisional secretariats. The overall aim of the study is to understand how those who access Community Mediation Boards perceive and experience Community Mediation Boards in the Northern Province. The study specifically looked at disputants' expectations of Community Mediation Boards, factors that explain disputants' satisfaction or dissatisfaction of the mediation processes and outcomes and who accessed Community Mediation Boards in the Northern Province.

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