

EQUAL VOICE, STRONGER JUSTICE: ENSURING GENDER PARITY IN MEDIATION BOARDS



Women mediators from the Thellippalai Division Community Mediation Board (Jaffna District) engaged in discussion with participants from the In-Country Exchange Visit program implemented by the SEDR project.

BACKGROUND

Women are actively visible in public spheres in Sri Lanka. But despite making strides in areas such as politics, public office, business, and civil society, and their active participation in the community, women's participation in Sri Lanka's mediation boards remains low. The Ministry of Justice took an initial step in 2003 to mainstream gender into the mediation program, and one aspect was to increase women's participation in mediation. The number of women mediators was as low as 1.8 percent when the mediation program first began in 1989 with this number increasing to 30 percent three decades later. Though there is growing institutional interest to

increase the percentage of women mediators, the policy approach to the mediation program remains gender-neutral, contributing to a bottleneck at the nomination stage of the process of appointing mediators to community and special mediation boards.

The Asia Foundation with the research support of bPotential (Pvt) Ltd, funded by the European Union's Supporting Effective Dispute Resolution (SEDR) project implemented with the British Council, conducted a study to set groundwork to explore a quota system at the nomination stage that requires 50 percent of all nominated candidates to be women.

KEY FINDINGS:

The study finds that several factors hinder the increase of women mediators in the program including misperceptions that women's domestic responsibilities make them unwilling to take on voluntary roles, limited awareness of the nomination process, misinformation about eligibility, gatekeeping practices that favor men, and intersectional barriers rooted in social and cultural norms. In reality, many women are eager to serve as mediators and can make meaningful contributions to improving access to justice.

At a special land mediation board in the Southern Province of Sri Lanka, women mediators comprise 65 percent of the board and they were matter of fact about routinely having mediator panels of entirely women mediators and managing a dispute without a male mediator present, highlighting women's contributions to upholding standards in the mediation program

PERCEPTIONS: NEED OF A 'GOOD WOMAN' LEADING TO THE HIGHER SCRUTINY OF WOMEN MEDIATORS

"For everyone, social standing is important, but for women it is more important. They should not be seen as gossiping, or fighting all the time, and they should manage their families well. Even if their husband is a drunkard, this reflects badly on the women. Women should know how to control their men, including from drinking."

Women Mediator from a Community Mediation Board, Southern Province

Women face stricter "character" criteria over men when being considered which disproportionately disqualifies them from mediator positions leading to underrepresentation. Women's marital status, perceived morality, and/or (feminist) activism and general involvement in the community are carefully measured against patriarchal standards of what it means to be a 'good woman' (*charithawath* in Sinhala and *ollukkamana* in Tamil) before being selected as a mediator. Men encounter fewer barriers, with one as minimal as not having a past criminal conviction.

CULTURAL BIASES INFLUENCING THE EXCLUSION OF WOMEN AS MEDIATORS

"There is no need to increase women in the board. Male mediators can handle everything. I personally believe that if the number of women mediators is increased it might favor women, and men might get discriminated, so the count shouldn't be increased... Women have to do their role according to our culture, if it changes then maybe they can come into mediation boards."

Female Divisional Secretary in a Central Province location with a majority Malayaha community

Patriarchal norms highlight men as "natural leaders," while women's caregiving roles influence those who nominate people for mediators into prioritizing men. Men are often perceived as better equipped to manage confrontational disputes, while women are seen as too vulnerable for such situations.

There are assumptions that women are too busy with care work to volunteer their time. In more conservative communities, women are actively discouraged from working or volunteering outside of the home, because their family responsibilities are seen as their primary and most important responsibility, to the exclusion of everything else

PREJUDICE AGAINST THE "FEMINIZATION OF MEDIATION" OR MISCONCEPTIONS ON "LOWERING OF STANDARDS"

There are also concerns expressed on having too many women mediators leading to the 'feminisation' of mediation and creating biases that favour women in the mediation process as a result. Misconceptions about the mediation process fuel these biases, with some believing it invites conflict, and risks physical violence, or disrupts family life—reinforcing the perceived notion that mediation is not a suitable role for women.

GATEKEEPERS AND NARROW NOMINATION NETWORKS

Nominations for mediators often emerge from male-dominated networks, limiting diversity and sidelining qualified women who are not part of these circles. Stakeholders often default to selecting retired male professionals without actively considering female candidates. Despite this, regardless of gender, officials and mediators alike

largely oppose public advertisements for nominations which would enable nominations of more women, fearing a loss of control over selection, expressing concerns that this could raise doubts about the credibility of mediation boards, invite political interference, and diminish the perceived value of the role.

DEEPENING MARGINALIZATION OF ALREADY MARGINALIZED WOMEN

“Disability means that they are not able to do mediation. Also in the gazette, it is not mentioned that disability or transgender people should be considered, so we are not thinking of them.”

Government Officer

Women from marginalized communities such as Malayaha Tamil women, Muslim women, women with disabilities, or women from lower-caste communities face compounded barriers due to intersecting biases (language, class, caste, cultural), making their nomination even less likely without proactive measures.

SUPPORT FOR AFFIRMATIVE ACTION: TARGETED AWARENESS TO A QUOTA AT NOMINATION STAGE

“Our former chairperson said that women representation is low and that we should make efforts to increase it. He went out looking for people to serve on the Community Mediation Boards, such as women, Tamil speaking people and so on, to improve the functioning of the Community Mediation Boards. So, we suggested names and increased the number of women.”

Women Mediator from a Community Mediation Board in the Southern Province

Many government officials and mediators support introducing a quota for women at the nomination stage, rather than at appointment stage. Existing areas with higher female participation was due to proactive and intentional outreach by officials highlighting that a quota could institutionalize and strengthen such efforts.

Women mediators are more confident and active when more women serve on a mediation board, whereas lone female mediators tend to defer to male colleagues. This shows that increasing women's representation will enhance performance.

There is limited public awareness about the nomination process and eligibility criteria. Civil society groups and marginalized communities—despite advocating for women's participation—often do not realize they can nominate candidates including women, missing a valuable opportunity to support women.

RECOMMENDATIONS

- **Institutionalizing a quota system with a broader Advocacy Campaign:** A comprehensive advocacy campaign should complement the quota, encouraging more women to step forward - addressing the barriers they face and highlights the work of community mediation boards, the selection process for mediators, and share success stories of female mediators as role models.
- **Raise Civil Society awareness:** Inform civil society on the eligibility criteria and their role as nominators, ensuring this information is disseminated through a wider pool of people.
- **Gender sensitization of gatekeepers:** Increase the gender sensitivity of those involved in the nomination process to counteract entrenched patriarchal biases.
- **Expand Gazette Notification reach:** Broaden the circulation of gazette notifications calling for nominations or simplify the information within them to ensure they are shared beyond government circles, reaching civil society and the media.



Nallur Division Community Mediation Board (Jaffna District)

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