

## CHURCH AS AN INSTITUTION FOR MEDIATION IN INDIA.

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KEYWORDS	ABSTRACT
Bible, Cost effective, Dispute Resolution, Mediation, Church, India. "Discourage litigation. Persuade your neighbors to compromise whenever you can". Abraham Lincoln.	Mediation is an alternative method for resolving disputes, where a neutral third party assists in guiding the discussions amongst the conflicting parties to support them in achieving an agreement. Unlike in a court of law, the mediator does not provide advice or make decisions; instead, they assist the parties in communicating and finding their own solutions. Mediation differs from the legal process in that it does not impose any decisions on the parties; rather, the parties themselves determine the terms of their settlement through mutual agreement. Unlike court rulings, which often result an outcome where one side wins and the other loses, Mediation seeks to achieve a mutually beneficial outcome for both parties. "Church mediation" is a specific form of mediation where churches play a role in resolving disputes among their members. In India, this form of mediation exists as "Reconciliation" at the parish level, though it is not widely recognized, even among parishioners of the particular diocese. The concept of church mediation or reconciliation is rooted in biblical teachings that emphasize the importance of love and harmony among people. This article will explore the potential the Church's function as a mediator in resolving disputes among Christian believers in India, the reasons for its limited effectiveness thus far, the challenges of implementing church mediation in a secular country like India, and the different strategies the Church can adopt to enhance its effectiveness in this role.

### 1. Introduction:

Any discussion on resolving conflicts, whether within communities or families, requires a thorough analysis of the characteristics of the conflict, followed by grasping of its religious in addition its cultural contexts. Conflict often involves a sense of loss and a desire to regain what has been lost. It is an action-reaction process, inherently relational, and can be seen as a natural result of differing viewpoints, unmet demands, or various other factors. Conflict arises from differences in opinions and perspectives. Recognizing and respecting others' right to be different is crucial. However, maintaining peace during a conflict can be challenging to achieve.

On a personal level, conflict arises from a loss of inner peace and harmony, leading individuals to stray from the teachings of the holy texts. Viewed from a Christian standpoint, the Church acts as a channel to restore the unity necessary for connecting a worshipping community with its liturgy.. In this context, the Church has various dispute resolution mechanisms which acts as a reference system for reestablishing harmony in situations of conflict.

Christian Scriptures and church worship consistently remind members of the community that living in peace with others, both within the same group and beyond, is a duty rather than a choice. This philosophy is encapsulated in two Christian maxims: "Treat others the same way you want them to treat you" (Luke 6:31) and "So in everything, do to others what you would have them do to you, for this sums up the Law and the Prophets" (Matthew 7:12). These verses are seen as guiding principles, particularly in a world where love has diminished, and consideration for others

has frequently given way to aggression. There is an increasing need to implement these guiding principles in the lives of members of the Christian community, to truly reflect the life of a believer, empowered by the indwelling Holy Spirit. Having a conflict with another community member surpasses a simple disagreement between equals, it is an act that contradicts the teachings and essence of the community, ultimately creating a rift in one's relationship with God Almighty.

When a believer engages in conflict with other community members, they are seen as drifting away from God and the teachings of the Church. In these situations, Church intervention is a natural response within the religious community. Seeking or providing assistance is not a matter of personal choice or preference but a required action, driven by the community's fundamental principles, with the goal of helping the conflicting parties repair their relationship with God. Both religious leaders and community members share the duty to provide and seek intervention in the effort to restore harmony. Internal and community harmony can only be reestablished through God's intervention. Mediation is a method of conflict resolution in which a neutral third party aids the disputants in their negotiations without imposing a binding decision. Faith-based actors are increasingly taking on mediation roles in ethno-religious and other conflicts, often with notable success. The participation of faith-based actors in conflict resolution is not a new phenomenon. Throughout history, faith-based figures, including clergy, religiously inspired leaders and religiously driven movements and organizations, have consistently been involved in conflict resolution.

These actors influence changes in actions, boldness, and undesirable labels; educate the people involved; heal suffering and wounds; spread thoughts like fairness and basic rights; enlist committed individuals for peace efforts; challenge conventional systems that maintain systemic violence; facilitate dialogue between opposing parties; and collaborate with governments to incorporate peace-building components into their policies. Additionally, religious groups are actively involved in delivering training on conflict management and prevention. In many societies with a longstanding heritage of community service, charitable work, and public support, religious entities have a well-established record of offering humanitarian support and emergency relief services. However, until recently, studies in the field of conflict resolution largely overlooked the influence of religion in peacebuilding and the distinctive qualities and strengths of religious actors in mediation. One reason for this delayed interest is that secular, rational problem-solving approaches and the methodological, epistemological perspectives developed by conflict resolution scholars often viewed religion either as a catalyst for conflict or ignored it entirely, as religious issues in conflicts are difficult to address from an empirical or positivist standpoint.

One primary reason for the lack of religion or spirituality in mediation is that the practice of mediation has been closely linked to the legal system. Consequently, following the principle of separating religion from government, there has been minimal focus on integrating religion and spirituality into mediation or other conflict resolution approaches. However, once individuals are involved in opposition, they normally draw upon their cultural background, which may encompass religion or spirituality. These elements can guide them in determining what behaviors are appropriate during conflicts, even in civil court cases.

The framework for mediation in India was first introduced by the Industrial Disputes Act of 1947, which provided a comprehensive process for mediation. Currently, mediation is governed by the Arbitration and Conciliation Act of 1996. Initially, Order X Rules 1A, 1B, and 1C of the Act empowered the high courts to establish guidelines for ADR mechanisms to address the significant backlog of civil cases. The legislature has also taken various steps, including amending Section 89 of the Code of Civil Procedure, 1908, to incorporate ADR mechanisms and facilitate 'court-annexed mediation. Mediation is a method of Alternative Dispute Resolution (ADR) and is considered "party-centered," since it mainly concentrates on the rights and interests of the conflicting parties. In 2002, the Code of Civil Procedure, 1908 (CPC) was amended, introducing Section 89, which, along with Order X Rule 1A, permits the referral of ongoing court cases to Alternative Dispute Resolution. Additionally, Order XXXIIA of the CPC encourages intercession

for matrimonial and interpersonal connections, acknowledging that the traditional legal process may not be ideal for handling the delicate nature of these matters. Mediation, as a mechanism that ensures both parties reach a win-win outcome, has unique characteristics and features that, if properly implemented, can be highly beneficial for society. It is also considered cost-effective since parties can present their issues to the mediator without enduring lengthy legal proceedings or paying court fees. This process is available both within and outside the court system. Mediation is a non-binding procedure, meaning parties are not required to continue if they are dissatisfied with the process. Unlike court proceedings, mediation allows the parties to directly discuss their issues, with the mediator serving as a neutral facilitator.

The concept of mediation is present in the Bible, where it is seen that Jesus Christ, by dying on the cross for humanity's sins, acted as a mediator between God and man. Various verses in the Bible indicate that mediation has existed since ancient times and that God never intended for His children to fight among themselves. Instead, they were encouraged to resolve disputes among themselves, and only if that failed, to involve a third person to help settle the conflict. "Many books in the Bible have emerged from situations of conflict, with most of the narratives revolving around tales of conflict. When used appropriately, the Bible can serve as a valuable resource for creatively addressing and working through conflicts."

Following the teachings of the Holy Book, churches in India continue to practice dispute resolution through reconciliation by establishing counseling centers, family service centers, and similar initiatives. Notably, many priests and nuns are trained in alternative dispute resolution methods and are equipped to resolve disputes arising from various causes.

### **1.1. Bible serving as source of Mediation:**

When we say that the process of mediation existed during the time of Christ, various chapters in the Bible serve as evidence. One such source is found in Matthew 18:15-17, which states: "15 If your brother or sister sins, go and point out their fault, just between the two of you. If they listen to you, you have won them over. 16 But if they will not listen, take one or two others along, so that 'every matter may be established by the testimony of two or three witnesses.' 17 If they still refuse to listen, tell it to the church; and if they refuse to listen even to the church, treat them as you would a pagan or a tax collector." This passage clearly outlines a process of mediation within the context of resolving conflicts.

It advises Christians against resorting to lawsuits to resolve disputes. Only after following the process outlined in Matthew Chapter 18 should a Christian consider taking their conflict outside the Church and pursuing legal action. The Bible outlines four steps that individuals should follow before filing a lawsuit in any dispute:

- 1) Approach the person directly and address the issue.
- 2) If the issue remains unresolved, involve one or two others as mediators.
- 3) If the matter is still unresolved, seek a decision from Church leaders that would be binding on both parties.

Only as a last option, consider the person as a non-believer and seek alternative methods to address the issue

There are number of several passages and teachings where Christ warns regarding pursuing law suit

*1 Corinthians 6:7 suggests, "The mere fact that you have legal disputes among yourselves indicates a complete failure. Wouldn't it be better to suffer wrong? Wouldn't it be better to be cheated?"*

*Matthew 5:25 advises, "If someone takes legal action against you, try to settle the dispute with them while there is still time, before reaching the court. Once there, you may be handed over to the judge, who will then hand you over to the authorities, leading to imprisonment. You will remain in jail, I tell you, until you have paid the last penny of your fine."*

*Luke 6:30-31 teaches, "Give to anyone who asks you, and if someone takes what belongs to you, don't demand it back. Treat others the way you want them to treat you."*

*Luke 6:35-36 encourages, "Love your enemies, do good to them, and lend without expecting anything in return. Your reward will be great, and you will be children of the Most High God, for He is kind to the ungrateful and the wicked. Be merciful, just as your Father is merciful."*

*Proverbs 25:8 advises, "Don't be too hasty to take a matter to court based on what you've seen. If another witness later disproves your claim, what will you do then?"*

*Matthew 5:40-41 teaches, "If someone sues you for your shirt, offer them your coat as well. And if a soldier forces you to carry his pack for one kilometer, go the extra mile and carry it two kilometers"*

All of these teachings discourage Christians from initiating lawsuits, emphasizing that love should be the foundation of all relationships and forgiveness the guiding practice to be recognized as children of God. In doing so, they indirectly encourage the peaceful resolution of differences between individuals. Peacemaker Ministries views mediation as a responsibility of the local church, rather than a task solely for professional mediators or lawyers." Peacemaker Ministries emphasizes that the goal of mediation is not just to "address surface issues," but to "pursue genuine reconciliation with others." When a conflict is cross-cultural, the mediator's task is to find shared understanding between the conflicting parties to achieve a resolution. Unlike a court, which applies neutral criteria resulting in a win-lose outcome, spiritual values offer a potential common ground that can motivate the parties to resolve their conflict through mediation. Mediators can improve conflict resolution outcomes by reinterpreting the differences between conflicting parties by focusing on common values. These common values arise from two origins: (1) universally recognized societal principles, such as fairness, limitations on unjust enrichment, and equity; and (2) religious principles, including love for others, belief in ultimate accountability, and the significance of personal sacrifice.

### ***1.2 Church as an Institution for Mediation in India:***

Since no legislation in India authorizes any religious institution to mediate, the Church has independently taken the initiative to adopt and implement settlement or compromise through counseling centers and family service centers, focusing on reconciliation. Recognizing the Church as a mediation institution in India would demonstrate its progressive role in resolving disputes and contributing to peace and harmony. The foundation of reconciliation efforts is conflict resolution, an instrument for resolving conflicts that has been in use for ages. God introduced mediation through Moses to free the Hebrews from bondage (Exodus 3:10-25); He also reminded Moses of this conflict management tool for his large congregation through his father-in-law, Jethro (Exodus 18:1-27); and God used mediation to bring peace to humanity through Jesus (1 Timothy 2:5; Hebrews 12:24). Within the church, mediation fulfills both spiritual and relational roles, with Jesus acting as the bridge in our disputes, enabling us to reconcile with one another through His love. When implemented by the church and rooted in scripture, this process is referred to as church mediation or conciliation.

The practice of mediation is reflected in the efforts made by churches in India, where church members are organized into zones, each managed by Parish Councilors who oversee the activities and address issues within their zones, with support from Parish Priests and Nuns. Additionally, Family Cells exist within the Parish to address and resolve matrimonial disputes that may arise.

Pastoral Counseling Centers in Indian churches contribute to the effective implementation of the settlement process by offering training programs for priests. These programs equip priests with the negotiation skills needed to assist people in practical ways. Additionally, these centers provide support and services to individuals and families dealing with various challenges.

The Churches in India have practiced dispute resolution long before mediation was formally established as a method in the country. This practice is rooted in the Church's teachings, which

emphasize love for one another and the principle of humility. For instance, priests and nuns have traditionally resolved disputes individually. Additionally, the formation of committees at the Parish level serves as another example. These committees, composed of members elected from within the Parish, include individuals with expertise in areas such as law, construction, and banking, depending on the nature of the dispute being addressed. It is observed that when a church chooses to implement the mediation process, selecting an appropriate mediator is crucial. The mediator must be well-suited to the specific dispute, as the process can fail if the mediator lacks the necessary skills and understanding. Finding an effective mediator can be challenging. While there is no strict definition of what a mediator should be, careful consideration is essential when choosing one. The church should first evaluate the mediator's impartiality, considering how and where they were found. It should also evaluate the mediator's credibility, especially their understanding of church dynamics. Finally, the church should take into account any internal or external elements that could affect the mediator and influence the entire process.

The church, because of its transformative character, shapes the commitments and actions of those engaged in its life and mission. Through its worship, liturgy, teachings, and outreach, the understanding of God and the divine plan of salvation becomes personally significant. The individual's connection with Christ, and through Christ with the faith community, is highly cherished, and this embrace of truth in faith is manifested in new behavioral patterns.

Mediation is deeply rooted in religious and spiritual traditions, and the integration of spiritual elements into mediation practices continues today. Recently, the Christian Conciliation Service (C.C.S.) has established offices to train and provide church mediators for resolving personal conflicts. According to the C.C.S., the aim of mediation is to honor God by loving one's neighbor and to assist disputing parties in changing their attitudes and behaviors to prevent future conflicts. Furthermore, the Roman Catholic Archdiocese of New York is currently working on establishing a mediation center for Catholics to resolve their disputes outside of the courtroom.

### ***1.3. Steps required for more effective integration of mediation through the Church:***

Although Christians in India are a minority, resolving their cases through mediation at the Parish level could help reduce amount of case accumulating in the law court. The number of disputes involving Christians is significant, so Faith-Based Mediation could play an important role and make a difference. However, to shift the existing practice of referring disputes directly to the courts, it is crucial for the Church and its leaders to actively implement mediation more effectively by adopting various measures at the primary level.

The first crucial step that Church leaders can take is to raise awareness among believers about the availability of this dispute resolution method at the Parish level. The Church website should provide detailed information on the advantages of this process, including its Biblical foundation, cost-effectiveness, the win-win outcome for both parties, and the positive impact it has on the relationships of those involved in the dispute.

The next important step is to provide mediation training to individuals within the Church who are deemed capable of handling such processes. Currently, this type of training is not offered at the Parish level, except for the training provided to Church leaders at Pastoral Counseling Centers. It is also essential to establish a method for selecting individuals to be sent for training, which can be determined by the parishioners themselves.

In India, all Church leaders receive training in dispute resolution at the Parish level. However, some priests and nuns pursue further specialization, undergoing one year or more of training at Vocational Centers. During this training, they receive practical experience and engage in conversations with parties involved in disputes to develop their dispute resolution skills, which they can apply in their respective deaneries. This process closely resembles mediation, where Church leaders are trained to resolve conflicts. Reports on each dispute handled at the Church or Parish level are submitted to the Parish Priest.

To ensure the success of Church Mediation in India, it is essential to first make parishioners aware of the mediation resources available within the Church and the presence of trained mediators. The next crucial step is to build confidence in this process, or at least highlight its advantages over other resolution methods. This can be achieved by helping parishioners understand that conflicts are a normal part of life and can be resolved with the Church's assistance, all while maintaining confidentiality. The Bible can also serve as a powerful tool in this effort, demonstrating that conflicts existed even during the time of Jesus Christ and illustrating the ways in which He resolved disputes peacefully. The foundation of Christian belief is based on God's commandments, including "Love your neighbor as yourself," which can guide the resolution process.

After establishing trust in the mediation process and the Church as a medium for it, it is crucial to ensure that any mediated settlement, including those from faith-based mediation, adheres to legal requirements. Additionally, mediators must be held accountable for the procedures they follow and the outcomes they achieve. This step is essential to prevent gender stereotypes or other biases from influencing the mediation process. Furthermore, once a settlement is reached, it is important to ensure that the parties comply with its terms. This can be achieved by documenting the settlement, having the parties sign it, and submitting the report to the Parish Priest or a designated individual. Since the entire process takes place in the presence of God, this also reinforces the commitment of both parties to honor the settlement terms.

It can be observed that while the Church's efforts to implement faith-based mediation are commendable, legal sanction for such mediation would significantly enhance these efforts. However, in India, there is currently no specific legal framework that endorses faith-based mediation as the sole method for dispute resolution. Legal sanction would grant legitimacy, thereby increasing credibility among disputing parties.

#### ***1.4 The Challenges of Church-Based Mediation in a Secular Country Like India:***

As mentioned earlier, the legal framework for mediation in India is still quite narrow. Apart from the inclusion of Section 89 in the Civil Procedure Code and a few specific laws permitting the referral of disputes to mediation, there is no dedicated legislation governing mediation in the country. Presently, mediation functions under the Legal Services Authority Act. It remains non-adjudicative, meaning that the case remains under the authority and jurisdiction of the Court, even while it is being handled by a mediator. Faith-based mediation has not been legally sanctioned, which limits its application. As a result, despite the tools and mechanisms readily available through the Church, this method of resolution has not been widely utilized in India.

Additionally, there are several other limitations to implementing religious mediation in India, which encompass:

1. **Complexity of the Conflict:** While the Church's use of the mediation process is generally considered effective, challenges arise when the conflict has persisted for a long time and caused significant pain, making a settlement seem unattainable. Deep-rooted conflicts often trigger strong emotions, which can impact the mediation process. Faith-based mediators may need to be adept at managing these emotions and creating a secure environment for parties to express their feelings. In such cases, even if the parties agree to the process, they may struggle to reach a settlement. Factors that influence the chances of "success" in church mediation include the following:

The intensity of the conflict; The maturity level of the disputants;

Whether the relationship started poorly from the beginning or had a history of functioning well in the past; and the duration of the situation, particularly if trust has been eroded over time. Long-standing conflicts are often more complex and deeply rooted, making them harder to resolve. The parties involved may be more resistant to change. Therefore, the severity of the conflict can impact the effectiveness of faith-based mediation, emphasizing the need to carefully consider the nature and complexity of the conflict when selecting a mediation approach.

2. **Lack of Belief in the Third Party acting as a Mediator:** A lack of trust in the mediator can significantly limit the success of the entire dispute resolution process. This issue may arise when the parties involved know the mediator personally and doubt their training or mediation skills. For example, if the mediator is a member of the Parish and one of the conflicting parties has had a poor experience with them previously, the mediation process is likely to be unsuccessful. Trust in the mediator is crucial, as it influences how open and honest the parties are in their communication.

3. **Lack of Faith in the Mediation Process:** Even if Church-based mediation is available, individuals tend to view the Court of Law as their first option. This mindset may be due to various reasons, one of which is the lack of legal sanction for faith-based mediation, which creates doubts about the entire process. People generally perceive court decisions as more effective, long-lasting, and binding, frequently disregarding mediation as a feasible method for resolving conflicts. The absence of legal backing for faith-based mediation leaves questions about the effectiveness and enforceability of settlements reached through this process, making it less impactful compared to court rulings. To build confidence in mediation, people need assurance that the settlements reached will be respected and that the parties will not be allowed to alter agreed-upon terms. This assurance is possible only if the Church is granted the necessary authority. Trust in the mediation process is closely tied to a commitment to resolving the dispute. If parties lack faith in the process, they may be less motivated to work toward a resolution, potentially causing negotiations to break down.

“A common belief is that resistance to mediation stems from a general lack of information about the process. It is widely thought that, because mediation is a relatively new approach in most areas except labor, it would be more frequently, willingly, and effectively used by disputants if it were better known and understood.” “It's important to recognize that resistance often stems from an individual's disbelief in alternative approaches to life. Clinging to familiar methods, the person fears that trying a different way of handling things could be disastrous and damaging to their self-esteem.”

4. **Gender Stereotypes:** Gender stereotypes can significantly impact Faith-Based Mediation in a country like India, where societal norms and religious traditions vary widely. Men are often perceived as having stronger decision-making power, while women may be seen as more submissive. In faiths like Christianity, where men predominantly hold governance and hierarchical roles, women may have limited access to certain religious spaces, affecting their participation in mediation. There may also be stereotypes regarding spiritual knowledge, with men often viewed as more authoritative or spiritually knowledgeable, leading to women's perspectives being undervalued in mediation.

The role of religious women in spiritual mediation requires attention, as they often face several challenges. These may include limited decision-making power and a lack of support within the religious institution. Additionally, bias can be an issue, with parties potentially viewing women as less authoritative or less capable of mediating disputes. It has been observed that religious women face a double disadvantage, as both secular and religious actors, as well as third parties, may be reluctant to involve them in mediation processes. However, religious women can often be central figures in a conflict, either because the conflict directly involves them or because they act as agents of change. Therefore, it is essential to analyze their role in conflicts. During the initial conflict analysis stage, assessing whether and how religious women are important for the mediation process should be prioritized.

### **1.5 Conclusion:**

The Bible, which is the foundation of Christian faith, serves as a strong testament to God's perspective on mediation and emphasizes that Christians should avoid taking disputes to court. The parables and scriptures encourage resolving conflicts by adhering to God's teaching to "Love one another as you love yourself" and to seek amicable solutions with the help of a third party. Christian conciliation, which utilizes Biblical principles for resolving conflicts, is founded on the

idea that disagreements among Christians should be addressed within the church rather than through the judicial system, as the goal is not about winning or determining who is right or wrong, but about discerning God's will in each specific situation.

To address the lack of awareness about the dispute resolution method available in Churches in India, seminars and workshops on mediation should be conducted within the Church. Its effectiveness should be highlighted to church members during regular mass services. In addition to raising awareness among parishioners, providing mediation training to Church leaders and selected parish members would enhance the quality of the mediation services offered and improve the mediator's approach. It is also crucial to eliminate any fears related to gender stereotypes or other biases in the process, and to build confidence in the positive outcomes, ensuring that neither party feels like a loser. The challenges facing the mediation process, such as the lack of legal recognition for Faith-based Mediation in India, the deep emotional pain caused by prolonged conflicts, lack of faith in the mediator, and skepticism towards the dispute resolution process itself, should be addressed by fostering a culture among parishioners to approach the Church as a mediation institution, rather than immediately turning to the Court of Law. However, it is important to recognize that Faith-based mediation might not be appropriate for every type of conflict, especially those involving intricate legal issues or financial issues that require specialized expertise. The beauty of mediation lies in the fact that the mediator does not impose their own decision but instead allows the parties to come together separately and confer their differences, a process not possible in a Court of Law. As an institution for mediation in India, the Church can make this process more appealing and acceptable to the parties, as they seek to resolve their differences in the presence of God. Ultimately, if the parties embrace the values taught by Jesus Christ rather than worldly values, the Church as a mediation institution can be highly effective in resolving disputes.

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