



NAGALAND

Vibrant Ethnic Communities in Transition

Land, People, Livelihood

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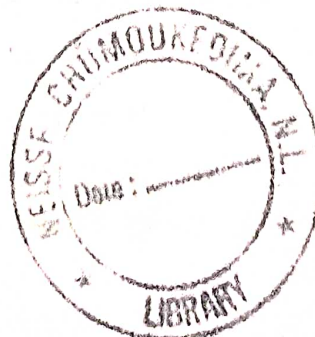
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Peer Mediation: A Model for Conflict Transformation

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Introduction

Mediation is a process to resolve conflict between two or more people who are unable to solve their disagreement or conflict independently. The process relies on an impartial third party, the mediator, to help individuals use communication, negotiation, and problem-solving skills to resolve the differences between them while reaching a mutually beneficial agreement (Strawhun *et al.*, 2014). In peer mediation, individuals are not bound to the official subject of dispute as mediation is not bound by rules of a formal proceeding—the parties can bring up whatever concerns them most. The success of mediation lies in the readiness and willingness of the conflicting parties to come to an agreement and the mediator's skills. If everyone wants to see the conflict end, mediation can be an efficient way to do so.

Peer Mediation and Youth

The United Nations defines 'youth' as persons aged between 15 and 24 years. However, this definition is flexible. According to

the World Youth Report (2018), there are 1.2 billion young people aged 15 to 24 years, accounting for 16 percent of the global population. The experience of being young can vary substantially across the world, between countries and regions, and 'youth' is therefore, often a fluid and changing category. As such, context is always an important guide in UNESCO's definition of youth (UNESCO, n.d.). In India, youth are defined as those aged from 15 to 29 years (Ministry of Youth and Sports, 2014). This age-group constitutes 27.5 percent of India's population. The 2011 Census counted 563 million young people from 10 to 35, according to the 12th Five-Year Plan (Planning Commission, 2013).

Peer Mediation is problem or conflict solving of youth by youth. It is a process by which two or more students involved in a dispute meet in a private, safe, and confidential setting to work out problems with the assistance of a trained student mediator or a facilitator (The Resolution Center, 2019). The most important feature of peer mediation in educational institutions as opposed to traditional disciplinary measures and other forms of conflict resolution is that, outside of the initial training and ongoing support services for the students, the mediation process is entirely carried out by students and for the students. It is a service that the students can use to resolve conflicts that they are having with other students by themselves. It gives them an opportunity to be more independent and solve conflicts in a mature responsible manner. It is both a programme and a process where students of the same age group facilitate resolving disputes between two people or small groups. This process has proven effective in educational institutions, changing the way students understand and resolve conflict in their lives. Changes include improved self-esteem, listening and critical thinking skills, and school climate for learning, as well as reduced disciplinary actions and less fights. These skills are transferable outside of the classroom. Peer Mediation is voluntary for both sides. Peer Mediators do not "make decisions" but rather work towards a win-win resolution for both sides to avoid further trouble. Administrators in charge of discipline incorporate this conflict resolution process into their strategies as well.

Peer Mediation on Different Levels

International Level

Americans saw school campuses in an entirely new way on April 20, 1999, when two students entered Columbine High School and gunfire began. Pictures of the murdered and footage of weeping families haunted magazine spreads and televisions. Prior to Columbine, many parents saw schools as safe havens. School was a place where parents sent their children to learn, not a place where they expected youth to receive emergency care. Two main approaches to school safety exist today: (1) security-oriented policies emphasize approaches such as on-campus law enforcement officers, while (2) behaviour-oriented policies favor conflict resolution and stronger communication between schools and families.

Peer mediation has found a warm welcome in primary and secondary education in America. It is now taught as the 'Fourth R' (The Fourth R is a comprehensive school-based programme designed to include students, teachers, parents and the community in reducing violence and many of today's risk behaviour) in many schools, alongside the foundational subjects of reading, writing, and arithmetic. Peer Mediation Programmes enjoy government support at local, regional, and state levels. Notably, states govern much of K-12 (kindergarten - Class-12) education in the United States, by setting state-level curricular standards for topics including English, mathematics, and science. When it comes to mediation curriculum, however, state legislatures also prefer encouragement over mandates.

Seventeen states and one U.S. territory support peer mediation in K-12 schools through state- or territory-level laws. Only one third of the states have policies that directly bear on PMPs. In the remaining two-thirds, by implication, local educators have even more free reign. When state legislatures address PMPs, they can require schools to develop peer mediation or other conflict resolution programmes, but only Alaska takes this mandatory approach. Some states provide funding for non-violent conflict resolution programmes, if local educators choose to adopt such programmes, either by authorizing targeted dispute resolution grants or by permitting general grants to be used on PMPs. Other states encourage mediation via non-

monetary resources, such as by providing technical assistance to educators who implement PMPs. In short, whatever policies state legislatures adopt regarding peer mediation, the states are permitting local discretion in peer mediation. This flexible policy approach empowers schools to tailor mediation programmes toward local needs, based on the stories and the situations that educators encounter each day (Churchill, 2013).

National Level

Mediation is an old process of dispute resolution practiced since Vedic period. It is a low cost effective intervention, keeping the matters, especially family matters, secret among the three parties—the two parties at conflict and the mediator. Moreover, the solution is not imposed on any party, the effort is to reach a solution that is acceptable to both the parties. It thus, gives an effective solution in a peaceful manner. Alternate Dispute Resolution method of resolving the disputes is relatively a new trend in India. The mediation process in India is not a newly invented procedure for dispute redressal, it is an old process since Vedic period. It is beneficial for both the sides—the courts are less burdened with cases, and the parties get their issues resolved quickly with less hassles. Thus, mediation has an important position in Indian Law.

The difference between taking a matter to litigation and taking it for mediation process, is that in litigation, there is a blame game and the allegations are to be proved, depending on which the Court gives a solution; whereas in Indian mediation, the matter gets resolved through negotiation, where the solution is sought with the consent of the parties after considering the demands of both the sides. The alternate dispute resolution consists of following types in India— arbitration, conciliation, negotiation, and mediation. Mediation in India is the most popular method among all the three processes. Mediation encourages the parties to participate in dispute resolution actively and directly wherein they explain the facts of their dispute, lay down options or ways to resolve the dispute and make a final decision by coming to a settlement.

One of the primary benefits of mediation in India is that it is a completely private method of dispute resolution. Only the disputing

parties and the mediator are involved, making the affairs of the parties personal and private. The mediator is an impartial and independent third party, who helps the parties in finding their own solution. All statements made during the process of mediation in India cannot be disclosed in civil proceedings or any other place without the prior consent of all parties in writing (Sharma, 2018).

State Level

North-eastern part of India is home to many ethnic communities with rich natural resources, yet relatively backward in economic development. The landscape is rife with racial, lingual, and ethnic diversity which has the potential to create ethnic tensions leading to violent conflicts. For more than half-a-century, the North East has seen an unending cycle of violent conflicts dominated by insurgencies with demands ranging from outright sovereignty to greater political autonomy. Indirectly, insurgent movements have spawned a variety of related conflicts.

In the last 15 years, Peace Channel, Dimapur, Nagaland has contributed to Peace and harmony by bringing about change in policy and structure in favour of vulnerable sections and recognising the rights of every individual and group to live in dignity, safety and peace in North East India, particularly in Nagaland, through enhancing the capacities of individuals on peace and related issues. Peace Channel has formed Peer Mediation Forum to mediate during conflicts, sensitize communities and institutions through workshops, seminars, and other awareness strategies. They built better alliance and collaboration with other like-minded organizations, media, and other state functionaries to sensitize the world at large on the issues of North East India.

The main value of Peer Mediation that Peace Channel applies is that it takes cooperation and understanding to resolve conflicts. It is based on the belief that in order to resolve conflicts constructively, those with the conflict must be willing to stay calm and control their anger, frustration, or other strong feelings; focus on the problem and not blame the other person, accurately state their feelings and wants, respect and work to understand different points of view and cooperate and create solutions that meet the needs of everyone involved.

Why Peer Mediation is Important?

- a. Just as reading and writing are essential skills for leading a productive life, so too are conflict resolution skills. Young people need to be able to communicate effectively, appreciate the consequences of their actions, generate, and evaluate alternative solutions to problems, and co-exist with people with whom they disagree. Peer Mediation teaches these fundamental skills and attitudes to both mediators and parties. Peer Mediator builds youth conflict resolution skills through Real-Life practice.
- b. All skills require practice to master, and peer mediation enables youth to develop their conflict resolution skills where it matters most: on real-life conflicts. This makes the skills come alive with a power and relevancy sometimes missing from school. Mediating real conflicts at educational Institutions also encourages the transfer of the skills to life outside of school. Being a mediator helps youth approach conflict in their own lives and in their communities with new perspectives and skill. For example, comments like: "My husband and I can't argue without Glenda coming in to help us resolve it", or "What have you done to my son? He listens to me now!" are not uncommon from parents of mediators.
- c. Peer Mediation motivates youth to resolve their conflicts collaboratively. It motivates youth to talk things out. Outreach efforts convey that mediation is the youth' process. They are in control; the proceedings are confidential and there is much to gain and little to lose. Youth learn from friends who are mediators or who have been parties that mediation works. Disciplinarians, trained mediators, or educators can guide youth towards peer mediation as an alternative to arbitration. Eventually, a significant percentage of mediation sessions are initiated by youth themselves.
- d. Peer Mediation empowers youth. Just as teachers do not teach students algebra by solving problems for them, adults do not teach young people to resolve conflicts by doing it for them. Peer mediation teaches youth the skills and then

encourages them to resolve their own conflicts in a supervised setting. It also gives youth a forum for resolving conflicts that might never have come to the attention of adults.

- e. Peer Mediation increases self-esteem. It is increasingly regarded as essential to youth success and enhances self-esteem in a variety of ways. Mediators experience their ability to make a profound difference in the lives of others, and their contribution is valued by adults and youth alike. Parties participate in a process that enables them to take charge of their lives and leaves them feeling successful rather than diminished. When a mediation session is 'successful', every person involved feels like they have done an honorable thing.

Structure of Peer Mediation - Purpose, Goal and Guidelines

Peer mediation as a conflict resolution technique/approach has been widely used in western societies. Yet, the potential effectiveness of this model in other parts of the world has not been exhausted. But after having referred a number of research findings, reading through number of secondary sources and experimenting this method with a significant number of youths on different levels, it was found that peer mediation approach can be effectively used in different cultures. Especially in India, it can be used as a model to achieve peaceful and constructive conflict resolution in the multi-cultural and pluralistic society of ours. Secondly, Peer Mediation model can be a useful tool in facilitating youth to manage their real conflicts, which will inculcate in them the skill to solve more serious conflicts in the future. Selection of mediator by their peers may reassure the youth that they can trust and confide in the mediators (Turnuklu *et al.*, 2009).

Goal

The goal of peer mediation is to reduce conflict and provide children with problem-solving skills. Trained peer mediators create a safe atmosphere, allowing disputing students to tell their stories and assisting them in working out a mutually acceptable agreement. Since

a solution is not forced on the students, the disputants feel empowered to take responsibility for their actions and to deal constructively with their immediate and future disagreement (Davies, 2015).

Steps of Peer Mediation

Step 1 - Meditation: Firstly, the disputants must agree to mediation. Then the mediator introduces himself/herself and asks the participants to introduce themselves. Next, the mediator explains their role with respect to the disputants, explains the ground rules, outlines the steps of mediation and asks for questions before the start of the mediation session. The mediator should try to make the disputants feel comfortable then begin the mediation with a prayer in order to have meaningful discussions with each other, to settle their differences and have their relationship restored.

Step 2 - Discussion: The mediator gathers prior information from both ends by asking each disputant to explain the course of events, listens to each party as they describe the problem, summarizes the submissions of both parties and writes down, rephrases it and asks the disputants if they want to add anything or if they agree upon the 'agenda' that includes all the elements of a dispute. The mediator should ensure that both parties get an equal opportunity to share their stories and talk about their concerns and also ensure that both express their experiences without any distractions. Once that is all out on the table, the discussion begins. This might include the mediator requesting that each party respectively respond to the other's opening statement and ask any questions they might have that will help them better understand the situation. This way, new information about the dispute can be introduced and then discussed. The joint discussion stage is where things can get off topic and personal. It is the job of the mediator to steer the discussion in the right direction.

Step 3 - Clarification: The disputants share both sides of the story after which the mediator brings out the facts and feelings of what both the parties shared. The main goal of the mediation is to focus on the 'surface' all of the underlying facts and feelings pertaining to the problem and find the common interests of the

disputants by clarifying doubts or asking many questions with the goal of helping to refocus the problem by viewing it differently. In the process the mediator should ensure that the listener's understanding of what the speaker has said is correct, reducing misunderstanding. Reassuring the speaker that the listener is genuinely interested in them and is attempting to understand what they are saying is important. While mediating, the mediator should involve clarification by offering back to the speaker the essential meaning, as understood by the listener, of what has been just said—thereby checking the listener's understanding and clarifying it, ensuring it is correct and resolving any areas of confusion or misunderstanding.

Step 4 - Rectification: While mediating, the mediator should ask the disputants to brainstorm on how they might solve the problem. The mediator writes down all the solutions, checks off only those options that both the parties can agree to and marks the ones that are mutually agreed upon. The mediator should rectify any issues or disagreement that take place and present the best solution acceptable to both the conflicting parties. If none are forthcoming, participants return to previous steps. Sometimes, individual sessions between each disputant and the mediator are necessary.

Step 5 - Resolution: The mediator should cautiously evaluate the options that are being placed by the disputants and ask each disputant to share on what can be done to resolve the problem. After the settlement of the issue, the mediator should write an agreement using the solutions to which both parties agree, and everyone signs it to resolve the issue through peaceful settlement and shakes hands.

Step 6 - Transformation: After the issues are settled through conflict resolution and signing of an agreement by both the conflicting parties, transformation of the relationship of both the conflicting parties is expected.

Step 7 - Evaluation: The mediator should explain to the disputants on how follow-up works, thank the people for being there and for allowing the mediation service to help them. After a fixed period, the former disputants report back to the mediator on whether the contract is being upheld by both parties.

Qualities and Skills for Peer Mediation

The peer mediator is impartial. A mediator is neutral and objective, a person who does not take sides. In Peer Mediation a peer mediator is an empathic listener. A mediator is skilled at listening with the intent of understanding what each disputant thinks and feels. He/she is respectful and can treat both parties with respect and understanding, and without prejudice. A peer mediator is trustworthy, builds the confidence and trust of the disputants in the mediation process by keeping information private. A mediator does not discuss the problem with other peers. Also, a mediator allows the disputants to solve their own problem rather than imposing his or her own favored solution and helps people work together. A mediator is responsible for the mediation process, not the solution to the problem. The solution to the problem is the responsibility of the disputants. When the disputants cooperate, they can find their own solution. Peer Mediation helps an individual in developing skills like listening to both sides, gaining trust, identifying positions, issues, and interests, building communication between parties, dealing with emotions, problem solving skills and using settlement technique.

Types of problems that can be mediated include: Social media improprieties, relationship difficulties/harassment, rumor and gossip, racial and cultural confrontations, classroom or extracurricular disputes, bullying, minor assaults and fighting (Skiba, 1999).

Some of the benefits or advantages of mediation is that it is inexpensive. Getting a summons to go to court is no way to start your day, week, month, or heck, even your year. Yes, the emotional toll is nothing to mess with and the process can be overwhelming. However, the financial impact can be a burden as well, no matter what side of a lawsuit you are on. There are costs associated with mediation but using it to settle a dispute is a lot less expensive than going to court. It is time saving. Not only will you save money using mediation over other dispute resolution options, but time as well. Some court cases can take months, even years. Mediation, on the other hand, can be scheduled and held in days. Prolonging the resolution of a dispute is never a good idea, and mediation can get you there fast. It is private. Nobody wants their personal issues being brought to light. Mediation provides a private and safe environment for disputing parties to present

issues, have discussions, and find solutions. Everything that is talked about during mediation is confidential, and the mediator remains neutral and focuses on the issue. It saves relationships. Peer Mediation helps in resolving students' conflicts, teaches students essential life skills, motivates students to resolve their conflicts collaboratively, and increases self-esteem. The process of training used by peer mediators improves school climate and effectively meets needs of both students and educators.

The solutions that come about from mediation are meant to please each party. By addressing the needs of each party, mediation preserves the relationship between the people disputing. Other methods are more win-lose and might not leave each party feeling good towards the other.

Roles and Duties of a Mediator

The mediator is to facilitate communication between the disputants with a view to help them reach a voluntary resolution to their dispute that is timely, fair, and cost effective. Although the mediator manages the meeting and is in charge of the proceedings, one should not impose solutions or decisions and has no power to force a settlement. A solution should only be reached by agreement between the parties. They are responsible for the ultimate resolution of the dispute. Furthermore, a mediator has no right or duty to provide legal advice to the parties even if he/she happens to be a lawyer. The parties should seek legal advice solely from their legal counsel. The mediator, however, may raise issues and help parties explore options.¹

The first thing that a mediator needs to foresee prior to the mediation is setting up the first meeting by following his/her appointment. The mediator will contact the parties or their counsel to fix a date for the holding of the first meeting. Mediation parties may be assisted by an advocate, legal prosecutor or any individual designated by them whether before or during the mediation proceedings. The following are the mediation procedures that need to be followed by a mediator during the mediation process.

¹ Roles and Duties of Mediator (2016). Retrieved from <https://www.india.gov.in>

1. Request the parties to sign, jointly with him, a document setting out the terms and framework for the conduct of the mediation process.
2. Give a brief description of his/her role and that of the parties and explain the mediation process with particular reference to the statutory provisions regulating confidentiality.
3. Discuss with the parties whether they agree to give consent in writing authorizing him/her to hold separate meetings with each of them on an individual basis.
4. Invite the parties to give a brief account of the facts of the dispute from his/her perspective. This may be done privately with the mediator, provided the parties agree to hold separate meetings.
5. Ask questions to clarify certain matters for the purpose of assisting the parties overcome any obstacle and explore options for settlement.

Duties of the Mediator

1. **Code of conduct:** Mediator is required to follow the Code of Conduct for Mediators in the performance of their duties as mediators.
2. **Impartiality:** A mediator shall mediate only in those matters in which he/she can remain impartial. Impartiality means freedom from favoritism, bias, or prejudice both in conduct and appearances. If at any time the mediator is unable to conduct the process in an impartial manner, or the parties, or any one of them, express doubt on any circumstance concerning the mediator's impartiality, the mediator should withdraw.
 - a) **Impartiality and challenge of mediator:** A mediator may be challenged on grounds of impartiality by any mediation party. When a mediator is challenged, he/she should withdraw and be substituted by a new mediator.
 - b) **Notification of challenge:** The party who intends to challenge a mediator should send a notice of his challenge in writing, stating the reasons for such challenge, to the

Registrar, the other party or parties and the mediator challenged, within 15 days after the party making the challenge has become, or could have become, aware that circumstances exist that give rise to justifiable doubt as to the mediator's impartiality.

3. **Conflict of interest:** A mediator has the duty and obligation to disclose to the parties any actual or perceived conflict of interest as soon as he/she becomes aware of it whether prior to accepting to act or at any time during the mediation process. If a mediator has a conflict of interest he/she may only accept or continue the mediation if the parties explicitly consent in writing. However, if the mediator deems that the conflict of interest gives rise to the slightest reasonable doubt as to the integrity of the process he/she should decline to proceed regardless of the consent of the parties.
4. **Confidentiality:** Confidentiality is the cornerstone of the mediation process. The communication or the discussions that are being made during mediation between the parties and the mediators are confidential and no evidence of anything said or documented produced during the mediation process is admissible in any litigation proceedings. Moreover, the mediator cannot be summoned as a witness on what took place and on what came to his/her knowledge during mediation. The mediator may however disclose to the Court any information obtained during the mediation process provided all the parties to the mediation give their written consent. Furthermore, the disclosure of the content of the agreement reached between the parties is also permitted when required to prevent harm to the physical or psychological integrity of a person or where the disclosure is necessary in order to implement or enforce the agreement reached between the parties.²

Conclusion

Peer Mediation is a new concept. Having implemented in the field and experiencing it with individuals at different levels, educating

² Roles and Duties of Mediator-Justice. Retrieved from <https://justice.gov.in/>

peers and forming Peer Mediators; it has been observed to wield a positive impact at different levels. It has empowered the individuals in resolving conflicts in a peaceful and constructive way. One most important factor in the success of peer mediation programmes is the active support of educational institutions and leaders from the community. A comprehensive planning process is necessary to outline goals and administrative accountability for each phase of the programme. Provision for the ongoing support of the peer mediator is especially important. At minimum, a weekly meeting should be held for the students to debrief, engage in guided reflection, and receive continued training.

One of the reasons for the success of peer mediation is the fact that it is initiated by the student. Children and adolescents can build culture of positive peer pressure within which they can begin to establish independence from adult guidance. When given the opportunity, they can use their own judgment to creatively solve disputes, and often their solutions are less punitive than those of adults. Research shows that children's solutions to conflict are more aggressive when adults are present. As children grow older, they rely increasingly on their peers as models and measures of correct behaviour. The potential judgment of peers during the mediation process may have a higher degree of moral significance to a teen than would the same judgment coming from an adult. In peer mediation, students could conform to positive social standards without sacrificing their identification with the peer group. Educators who have implemented peer mediation programmes attribute many benefits to them. The positive outcome from the field after formation of Peer Mediation Forum and mediating issues has been measured and established. It helps in developing confidence and enhancing leadership skills and resolving conflicts at Individual level, Institutional Level and Community level. It provides an opportunity to reach out to different communities to live in peace and harmony.

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