



**SEDR**

Supporting Effective Dispute Resolution  
உலகளாவிய ஈர்க்கும் கிரகணம் கண்காணிப்பு  
பயனுறுதிமிக்கவகையில் பிணக்கை  
தீர்ப்பதற்கு ஆதரவளித்தல்

# **STRENGTHENING A JUST ALTERNATIVE**

POLICY BRIEF 2023

# KEY SURVEY FINDINGS

**89%** of those who accessed Community Mediation Boards, stated they are satisfied with the way their disputes were resolved.

Most respondents confirmed it is **cheaper** and **faster** to use ADR mechanisms to resolve their disputes, than using the formal justice system.

**67%** of respondents stated there should be an equal representation of men and women in any ADR forum.

**80%** of people who used Community Mediation Boards are likely to use them again in the future.

# 1 INTRODUCTION

Community-based Alternative Dispute Resolution (ADR) mechanisms play a vital role in resolving disputes and preventing the escalation of conflict into overt violence. In Sri Lanka, where social tensions along different fault lines ebb and flow, community-based ADR initiatives<sup>1</sup> provides effective pathways to access justice. In Sri Lanka, such community based ADR mechanisms comprise inter-faith committees and multiple types of other initiatives established by civil society organisations (CSO). In addition, Sri Lanka has a well-established National Mediation Programme operated through more than 300 Community Mediation Boards (CMB) where approximately 8,400 well trained volunteer mediators deal with roughly 250,000 disputes per year. In this context, a better understanding of people's access to and awareness of community-based ADR mechanisms - especially CMBs - is required, as a first step towards strengthening access to and raising awareness about such initiatives through a policy brief, such as this one.



<sup>1</sup> For the purposes of this Policy Brief, community-based ADR initiatives refer to individuals and mechanisms involved in resolving disputes such as religious leaders, government administrative officers and Community Mediation Boards.

A **Knowledge, Attitudes and Practices (KAP)** survey was commissioned by British Council who, in partnership with The Asia Foundation, leads the implementation of the European Union (EU) funded Supporting Effective Dispute Resolution (SEDR) project, in Sri Lanka over four years (2020-2024). SEDR seeks to enhance the effectiveness and availability of dispute resolution mechanisms and to foster social cohesion and more inclusive community-state engagement in Sri Lanka. The aim of the KAP survey was to provide an initial assessment of public awareness of various community-based ADR initiatives, including the mediation boards (both community mediation boards and special land mediation boards).



This Policy brief presents findings around the three main themes explored during the KAP Survey:

## What do people **Know** about ADR?

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## What do people **Think** about ADR?

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## What are people's **Experience** of about ADR?

Full and detailed analysis of the survey data is available in the final report Knowledge, Attitudes and Practices Survey<sup>2</sup>.

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<sup>2</sup> June 2022, available at [www.sedrsrilanka.org/](http://www.sedrsrilanka.org/)





## 2 ABOUT THE KAP SURVEY

Conducted in 2021/22 - 10 years since the last assessment of CMBs - this study covered six districts in the country, targeting 1,712 households of all three main ethnic groups. Apart from the districts of Ampara, Trincomalee, Vavuniya, Mannar, Badulla and Monaragala, a limited sample from Colombo district (within the Municipality Council area) was selected to provide an element of comparison. For the quantitative survey, the Divisional Secretariat Divisions<sup>3</sup> and the Gramani Niladharis were purposively selected to ensure that surveyed households are representative of the ethnic population of the respective survey Districts.

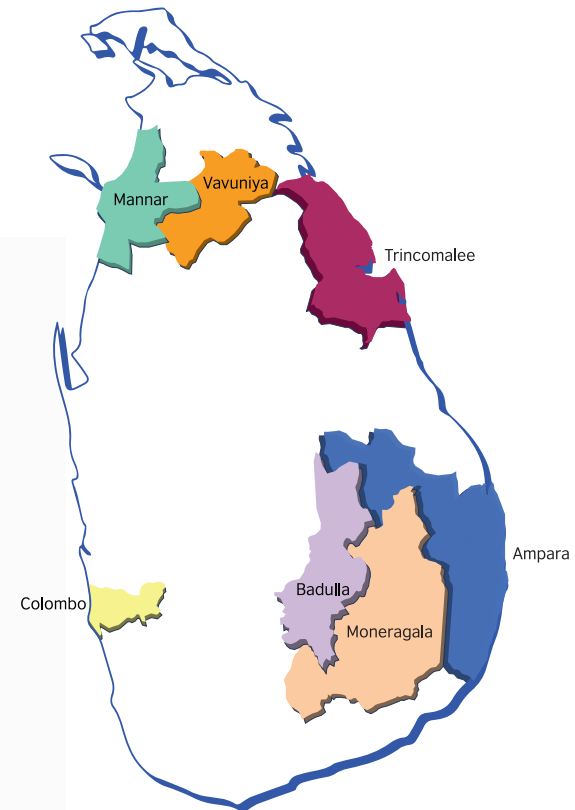
Additionally, Twenty- nine (29) Key Informant Interviews (KIs) with officials involved in community mediation and alternative dispute resolution and 25 focus group discussions with CSO representatives, Community Mediation Board members and women and youth, were conducted in the six districts.

<sup>3</sup> Sri Lanka is divided into 25 districts. Each district is administered under a District Secretariat. The districts are further subdivided into 256 divisional secretariats, and these in turn, to approximately 14,008 Grama Niladhari divisions.

When considering the overall results across the surveyed locations there is clear knowledge gap in relation to the process adopted at CMBs. Thus, the survey results do lend to developing awareness programmes on the process at CMB that are nationally and regionally applicable and useful.



Figure 1: Targeted Districts of the Survey





## 3 WHAT DO PEOPLE KNOW ABOUT ADR?

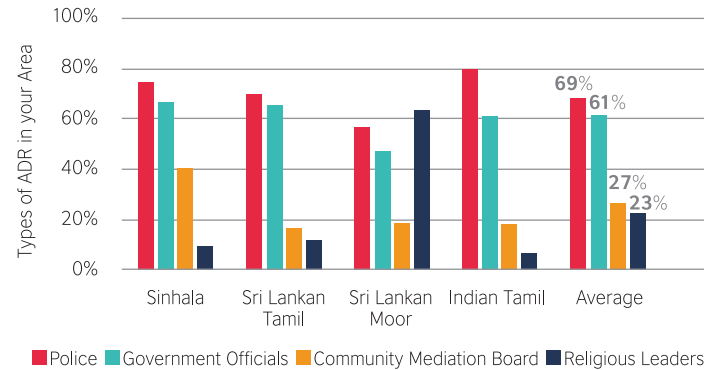
In general, people know who engages in community-based ADR initiatives including CMBs but know very little about Special Land Mediation Board. Also, peoples' knowledge on the purpose of the CMBs, how it operates, how to access the mediation services and the composition of the boards is comparatively low and it varies. Focused attention is required to address this gap in awareness to encourage use of CMBs.

*Most of the people do not want to tell their problems to others. The (mosque) trustee board tries their best to resolve the disputes. The mosque has rendered numerous services to the poor people. It deals with the problems that we cannot say out loud. They maintain the confidentiality of the people who come to them. (Focus Group Discussion, Monaragala)*

### 3.1 Who engages in ADR?

Most respondents identify government officials (Police -69% and Grama Niladhari – 61%) as actors dealing with disputes within their community. A little over a quarter (27%) identify the Community Mediation Boards as an ADR actor. The Sri Lankan Moor community is more familiar with religious leaders as engaging in ADR, compared to other ethnic groups.

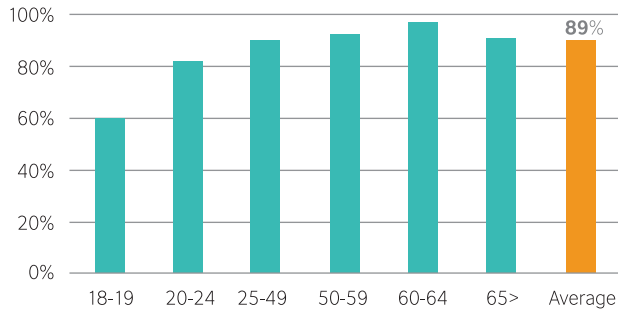
Figure 2: Main Alternative Dispute Resolution mechanisms stated by respondents



### 3.2 Basic awareness levels of CMBs were high

89% of the respondents had heard of CMBs. However, respondents from Colombo district and youth from all districts had heard of CMBs relatively less (only 30% and 60% respectively) compared to other districts and other age groups respectively.

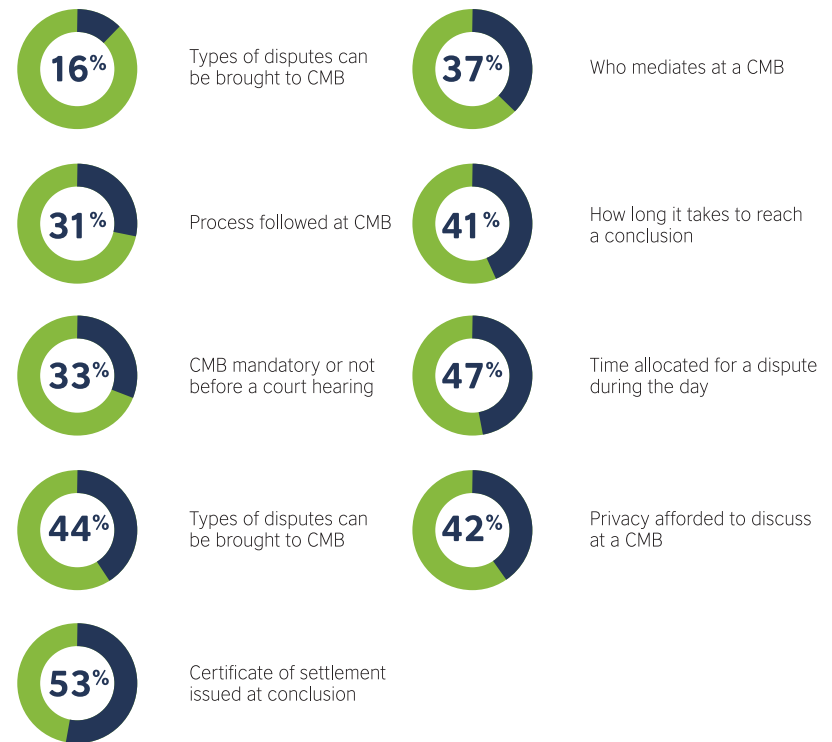
Figure 3: I have heard of Community Mediation Boards



### 3.3 Knowledge on the specific functions and process of CMBs is relatively low

Despite having heard of CMBs, a majority of respondents were not aware of the details and processes of CMBs. The lowest knowledge levels were on items such as the issuing of settlement certificate, the time allocated for a dispute during the day, and whether the information presented and discussed in CMB can be used in courts.

Figure 4: I don't know about following specific details of CMBs



### 3.4 Awareness levels of Special Mediation Boards (SMB)<sup>4</sup> were very low

The qualitative study reveals that the respondents have very little awareness about the presence, functions and the process followed by the Special Mediation Boards, such as those on land, even in districts that have such functional boards. Despite the presence of Special Land Mediation Boards in the district, the mediators were of the view that the land disputes are still reported to the CMBs. Unlike the CMBs, the Special Mediation Boards are relatively new and located at district level, creating a distance with the communities. This distance could be the reason for lack of awareness about SMBs.

### 3.5 ADR and CMBs seen as important mechanisms to prevent tensions escalating into violence

At a community level, in most of the study locations where an ethnically mixed population demography was

observed, the tendency for disputes among groups to escalate into violence, along ethnic or racial lines - and the likelihood that such tensions result in communal riots - was highlighted during qualitative discussions. In such instances, addressing suspicion and gaining trust among different disputant groups was seen to be critical and ADR mechanisms are believed to play this role.

**There is a clear need and opportunity to create change and strengthen ADR while addressing gaps in the system:** 73 per cent of respondents indicate that they would like to learn more about the CMB process with more youth stating thus. While Community Mediation Boards are perceived as helping maintain social cohesion, long-held contentions regarding perceived discrimination on the basis of caste, money and social status were cited as reasons that can reduce the effectiveness of the CMBs.

<sup>4</sup> The Mediation (Special Categories of Disputes) Act, No. 21 of 2003. Order under Sections 2, 3 and 8.

# 4 WHAT DO PEOPLE THINK ABOUT ADR?

## 4.1 How effective is ADR?

Actor-specific reasons were cited in relation to how effective the ADR mechanism is. The CMBs are associated with positively dealing with and resolving the issue properly/equitably and with the belief that they could resolve the dispute, pointing towards the appreciation of interest-based mediation approaches. Government officials on the other hand are associated with high levels of knowledge about their communities; and religious leaders are seen to adopt an equitable/just response towards dispute resolution.

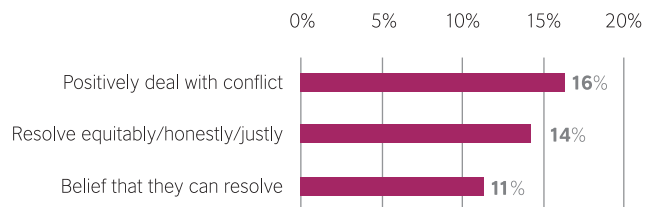


## 4.2 Why do different actors in ADR manage disputes well?

When asked why people think specific community-based ADR mechanisms are effective, they provided diverse and actor-specific reasons.

**Community Mediation Boards:** In terms of the CMBs, the reasons cited included, positively dealing with dispute, resolving the issue properly/equitably and the belief that they could resolve the dispute.

Figure 5: Why CMB manage the dispute well?



**Government officials (mainly Grama Niladharis) and religious leaders:** Government officials and religious leaders are seen to resolve disputes well given that they are respected by people.

Figure 6: Why the government officials manage the dispute well?

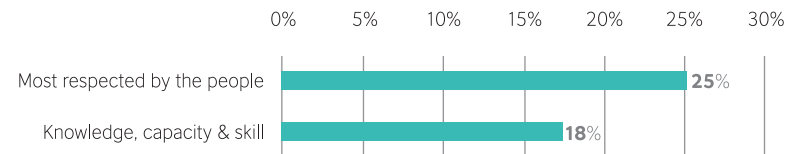


Figure 7: Why religious leaders manage the dispute well?

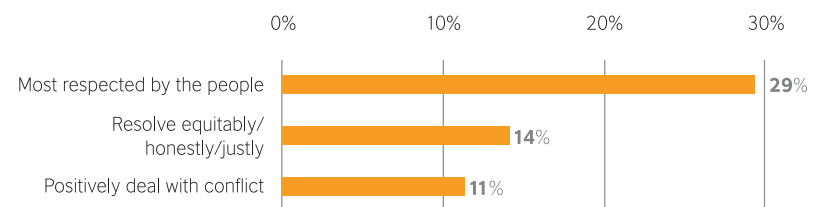
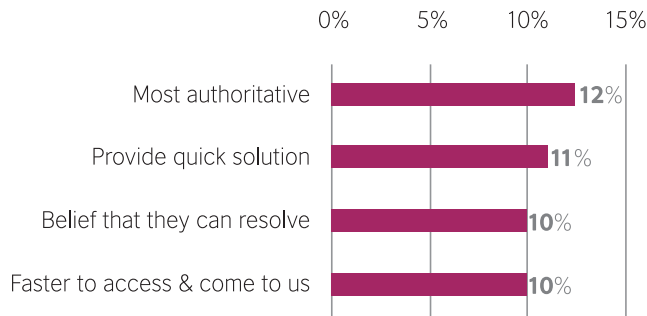




Figure 8: Why Police manage the dispute well

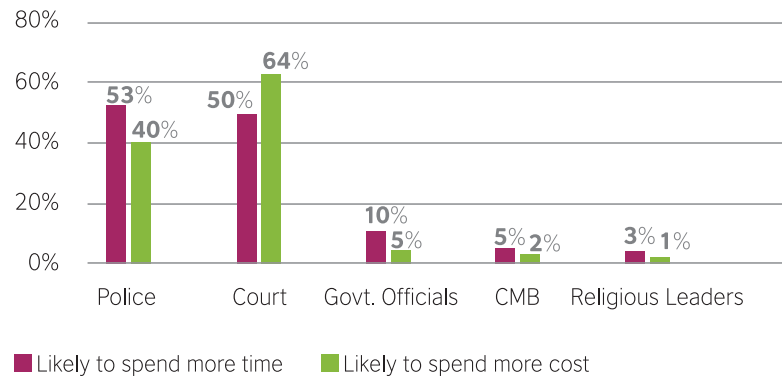


**Police:** The police play a key role in dispute resolution, usually as the first or second point of contact, in a complaint process. Hence, while people may still prefer to use the police for dispute resolution, given the authority and the power they wield and perceived ease of access and response times. However, distance and language barriers were making people less inclined to use the police.

### 4.3 CMBs and religious leaders cost less and save time

It is cheaper and faster to approach religious leaders and CMBs to resolve community or personal disputes. 64% per cent stated that they are likely to spend more money going to the court to resolve the issue, followed by the police (40%)

Figure 9 : Perceived cost and time to resolve personal or community dispute



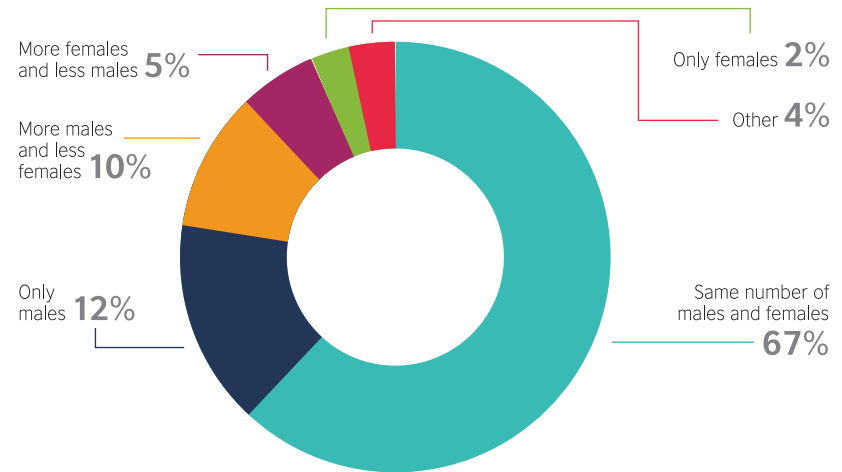
## 4.4 Who should be part of ADR and chair them?

67% of respondents stated that there should be an equal representation of men and women in any ADR forum. When it comes to the ideal chair of the ADR forum, most male respondents preferred to have a male chair and among female respondents also, a male chair was preferred over a female chair. This confirms previous study findings on women's role in community mediation in Sri Lanka, which identified the preference for 'older male demographic as the mediator'<sup>5</sup>.

However, past studies also indicate a preference for a woman mediator, especially when discussing sensitive matters such as a family dispute, by women<sup>6</sup>.

## 4.5 Representation of Gender in ADR Forums

Figure 10: Ideal gender composition for ADR Forum as per the respondents



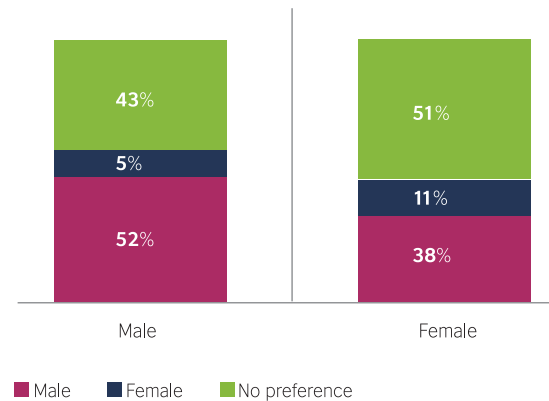
<sup>5</sup> Community Mediated Justice in Post-War Sri Lanka (2016), de Silva, Jayasundere, and Rahman.

<sup>6</sup> Community Mediation (2028), Munas et al.

### Opportunities for building on existing strengths of ADR and addressing identified gaps:

Specific ADR mechanisms are perceived to be effective in resolving certain types of disputes. As such, a closer look at ADR mechanisms by type of disputes they resolve, is required to understand their effectiveness. ADR mechanisms are generally perceived to be cost and time effective in arriving at a settlement. However, special attention must be paid to considerations highlighted with regard to negotiating or mediating legitimate grievances brought by the powerless, poor and vulnerable communities, especially regarding poor people's right to access formal judicial processes.

Figure 11: Ideal Chair of the ADR Forums as per the respondents



# 5 WHAT DO PEOPLE'S EXPERIENCES OF ADR SHOW US?

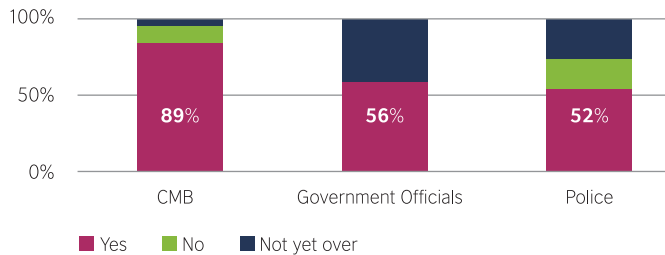


**Those who have accessed CMBs are very satisfied with the resolution of their dispute**

89 per cent of those who had accessed Community Mediation Boards stated that they are satisfied with the way the dispute was resolved. Those who had been to a CMB were more likely to go to a CMB again. This underscores the greater potential to create awareness and thereby encourage people to access CMBs.

## 5.1 Level of satisfaction with the dispute resolution process

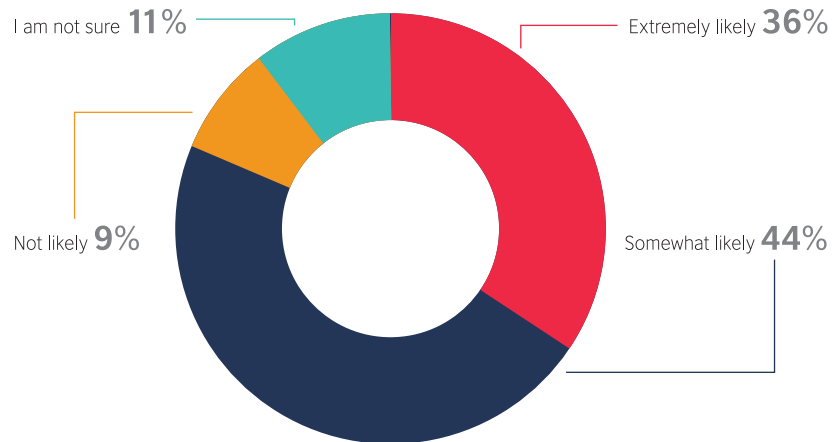
Figure 12: Parties satisfied with resolution of the dispute



## 5.2 Those who have been to CMBs are likely to use them again

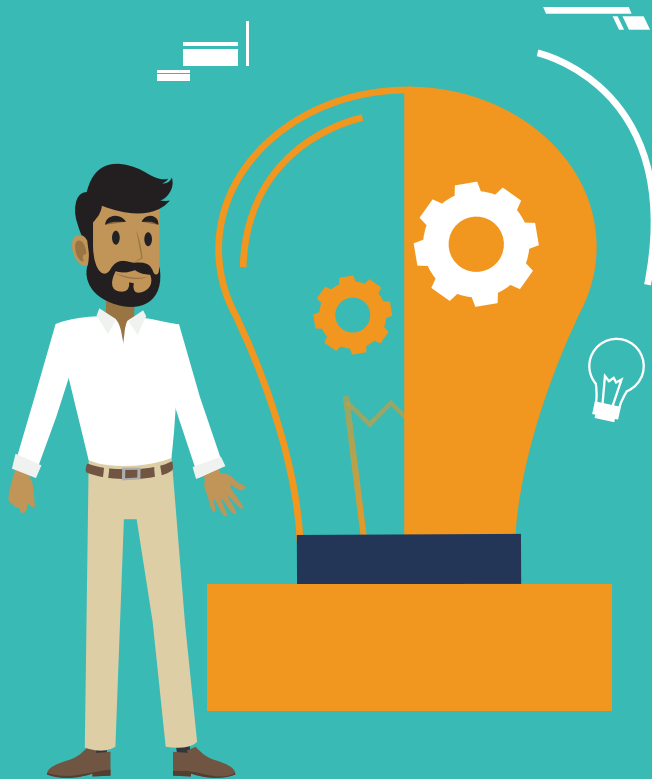
80 % of those who have used CMBs have stated that they are likely to use CMBs again, whereas those who have not used CMBs showed a lower tendency to use CMBs in the future. Those indicating that they are extremely likely to make use of the CMB, cited easy access, cost being low or no costs, shorter process, trust of the process and the solutions being effective, as reasons for their preference.

Figure 13: Likelihood of using CMB again- Respondents who have been to CMB previously



**High levels of satisfaction with CMB by those who have used CMBs should be capitalized on:** That satisfaction levels are high among those who had accessed the CMB is a positive highlight and should be made central in future awareness raising campaigns. Such campaigns should also assess and address factors that lead to dissatisfaction among the disputants when the resolution is adverse, especially since word-of mouth recommendations play a vital role in non-users approaching the CMBs.

# 6 SKILLS AND COMPETENCIES



## 6.1 Appointment of mediators

Previous studies highlight the importance of encouraging more women to become mediators but also highlight the additional care burdens that they have to face at home which in turn, limit their participation in voluntary work such as mediation<sup>7</sup>. Further, the average age composition of CMBs is above 50 years in most boards. Discussions with mediators and chairpersons of CMBs highlighted that personal and professional commitments (time required for further education for example) was for instance limiting the participation the youth in mediation. However, in general, there was agreement that a better balance between the youth and older age groups was necessary for the effective functioning of CMBs, especially given the requirements for better information management, through digital technology.

<sup>7</sup> (Jayasundere and Rahman, 2016; Jayasundere and Valters, 2014)

## 6.2 Training for mediators

Most mediators were of the view that the five-day training provided at the appointment phase was very useful as it included multiple aspects on mediation. However, the mediators and the MTOs were of the view that a 'refresher course' - offered at regular intervals - on principles of interest-based mediation and the process of mediation was needed to ensure a better service to the community.

## 6.3 Resources and infrastructure

In terms of resources, the lack of Information Technology (IT) equipment and the need for training for better information management, data collection, effective

follow-up and monitoring were highlighted by the mediators, chairpersons of CMBs and MTOs. Further, the lack of a suitable space, at least in certain locations that were studied, was discussed. This confirms the issue of the lack of privacy discussed earlier.

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***[There is] [no] permanent place for the mediation board. To reduce the expense, the government operates this mediation board in government common buildings. There will be about 5 groups of people (5 cases being mediated in one common hall). So, the basic concept of ensuring confidentiality in mediation is not followed (in such instances). (Key Informant Interviews, Trincomalee)***

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# 7 CONCLUSIONS

## Knowledge



The presence of ADR mechanisms at community level help prevent tensions escalating into bigger conflicts or even violence. These efforts contribute towards harmony and overall peace among communities.

Knowledge/awareness about the ADR in general is influenced by access and proximity.

In general, people know of the existence of the CMB, but knowledge on its purpose, how it operates, how to access the CMB and the composition of the CMB varies. Knowledge on CMBs was weaker among younger age cohorts, women and Sri Lankan Tamil and Moors.

The levels of awareness are high mostly among those who had accessed the CMBs to address their disputes or had helped their peers in the process.



Their ideal composition of an ADR forum – according to respondents - would include government officials, such as the Grama Niladhari, village elders and religious leaders.

In terms of operations of CMBs, given that sensitive disputes such as family disputes are taken to ADR mechanisms, assurance of privacy is critical for ADR and CMB specifically.

## Attitudes

People perceive CMBs and religious leaders as cost-effective and time saving options to resolve disputes. However, long-held contentions regarding perceived discrimination on the basis of caste, money and social status were cited as reasons that can reduce the effectiveness of the CMBs

People go to the Police given high accessibility and belief in its authoritative power to resolve disputes. However, language barriers encountered at the Police, for instance, is seen to constrain resolution processes.

In terms of the perceptions on composition of ADR mechanisms, while equal representation of men and women as ADR members is viewed as important, long-held gendered notions also lead to questions regarding women as viable ADR actors, including mediators.

In case of chair of the ADR forums, a majority of male and female preferred to have a male chair of the forum, highlighting the gendered social norms of 'middle-aged man' as the typical mediator or chairperson.

## Practice

Greater participation, flexibility of the system and range of choices offered by the ADR systems, especially CMBs are some reasons that can be cited as people's preference for this system.

People's practices of approaching the ADR mechanisms emerge from their or their peers' experience with such systems.

There is a risk that because of ADR being seen as the 'low cost' option, it may inadvertently deprive poor and vulnerable groups from accessing formal judicial processes in more serious cases. Therefore, measures need to be taken to prevent such situations and create awareness on the opportunities to opt for formal resolution mechanisms, as per regulations.

There is a need to increase awareness on CMBs, its mandate, functionalities, composition, especially focusing on the mechanism as a service offered to the public, enabling financial and time savings. In terms of resources, the lack of IT equipment and the need for training for better information management, data collection, effective follow-up and monitoring were highlighted by the mediators, chairpersons and MTOs.





## 8 RECOMMENDATIONS

Given the important role community-based ADR, and CMBs in particular, play in facilitating social cohesion by stemming the escalation of tensions, the following steps are recommended to increase awareness of the community level ADR and increase their effectiveness.

- Design and launch a targeted approach for awareness creation on accessing and the process of ADR in general and CMBs specifically.
- Conduct skills and knowledge improvement sessions for ADR actors, including religious leaders.
- Share research evidence with relevant authorities of the Sri Lanka Police. Focus must be placed on the need to work on trust, confidence building, eliminating biases and addressing allegations of corruption.

- Incorporate services of Development Officers in-charge of mediation to strengthen coordination among relevant MTOs, CMB Chairpersons and other relevant government officers such as Grama Niladhari and Divisional Secretaries.
- Conducting a continuous assessment and updating of training requirements of MTOs and mediators
- Design and implement of a comprehensive, centralized, linked Management of Information System for the national mediation programme.
- Ensure and facilitate privacy within the space where CMBs are conducted.
- Introduction of special mediation boards to handle financial disputes and on land into those districts that do not have such boards functioning at the moment.







# **STRENGTHENING A JUST ALTERNATIVE**

POLICY BRIEF

March 2023

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# SED R

Supporting Effective Dispute Resolution  
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