

Community Dispute Mediation in Asia



The Asia Foundation
Improving Lives, Expanding Opportunities

Resolving local disputes through community-based mediation can ensure that social conflicts are managed peacefully and can provide a viable alternative form of justice. The Asia Foundation's mediation programs vary across Asia, with some emphasizing access to justice while others aim to improve social relations. In places with active or recent conflict, our community dispute mediation work has an explicit focus on preventing the escalation of disputes into violence.



When judicial systems are weak, people may have difficulty accessing justice and disputes may not be handled fairly. These institutional failings can cause local disputes to fester and lead to violence, especially in countries enduring or recovering from conflict or where social relations are fractured. Where local disputes are not managed, they can exacerbate ongoing or create new conflicts. Disputes over land or business transactions, for example, may begin as interpersonal problems but over time can aggravate broader tensions within or between communities.

OUR PROGRAMMING

The Asia Foundation has supported community dispute mediation in 16 countries across Asia for decades. This involves a neutral third-party assisting the resolution of a dispute between two or more parties. The parties identify their needs and develop mutually satisfactory solutions. This kind of mediation provides space at the local level where parties can express themselves, listen to each other, discover the roots of their dispute, and agree on a settlement.

Many of these programs are long-running, and all are customized to local context, operating through government in some places and civil society in others. These programs strive for some combination of the following three goals:

Improving access to justice – Community dispute mediation can improve access to justice with its decentralized community-based structures offering easier, more affordable, and quicker ways to achieve justice.

Improving social relations – Community dispute mediation can build trust, enhance positive attitudes and cooperation, and improve relationships between disputants.

Reducing conflict – Community dispute mediation can prevent the escalation of local disputes into larger unrest and violence.



SRI LANKA

The Asia Foundation became involved in community dispute mediation in 1988 when the Mediation Boards Act was passed. The Ministry of Justice aimed to reduce the delays in the formal court system by developing an informal, efficient, easily accessible, and affordable dispute resolution mechanism. Community dispute mediation is now widely accepted and used countrywide.

As of January 2016, there were 329 community mediation boards and over 8,400 active mediators. The boards address disputes ranging from assaults and land to financial issues.

The Foundation has worked with local partners to strengthen technical mediation skills and to increase the number of women and Tamil-speaking mediators. Since 2006, and particularly since the end of the civil war in 2009, The Foundation has helped expand the community mediation boards into the conflict-affected North and East.

Community mediation boards have heard more than 2.5 million disputes with resolution rates ranging from 50 to 60 percent. The boards have enhanced communication and lessened tensions between those affected by, or involved in, interpersonal or localized disputes.

AFGHANISTAN

Based on decades of experience, and drawing on the annual *Survey of the Afghan People*, The Asia Foundation's mediation programs work through community structures (primarily *shuras* and *jirgas*). Afghans often seek justice through these informal mechanisms because of expediency and accessibility. These structures have been used by com-

munities to resolve family conflicts and disputes related to land and resource allocation. However, community dispute mediation has historically disadvantaged women with structures dominated by men.

The Foundation has worked to expand women's access to justice by encouraging the recruitment of volunteer female mediators and raising awareness of and advancing women's rights. Community dispute mediation programs have led local committees to consider women's rights in their decision-making processes based on Afghan law. The Foundation has also established female conflict resolution committees to address key issues for women, such as family disputes, at the local level.

THE PHILIPPINES

The mediation program in the Philippines took shape in 2008 with The Asia Foundation supporting civil society networks in Mindanao. Conflict in the country's south is complex and multifaceted with insurgencies, local political and resource conflicts, and widespread clan-based fighting (*rido*). The Foundation helps resolve *rido* by drawing on traditional practices of dispute resolution using trusted community members as facilitators. Civil society partners respond to perceived high-risk clan conflicts and proactively intervene. The mediation program builds on our extensive conflict resolution research and practice since 2002, which resulted in the publication of a book containing studies of *rido* in 2007, which was revised and expanded in 2013.

The Foundation's civil society partners work discreetly to set up the conditions for reconciliation between conflicting parties. Our partners have deep local expertise and connections that allow them to quickly identify imminent clan conflicts and resolve them, including clan conflicts that may affect the ongoing peace process in Mindanao. Once a dispute has ended, the Foundation funds a *kanduli* – a celebration of reconciliation.

The Asia Foundation is a nonprofit international development organization committed to improving lives across a dynamic and developing Asia. Headquartered in San Francisco, The Asia Foundation works through a network of offices in 18 Asian countries and in Washington, DC. Working with public and private partners, the Foundation receives funding from a diverse group of bilateral and multilateral development agencies, foundations, corporations, and individuals.

A DISTINCTIVE APPROACH

The Asia Foundation's community dispute mediation programs are founded on mutual learning with our local partners. We respond to the needs of communities when developing these programs, also directly engaging with the state where appropriate. We critically engage with the underlying assumptions of alternative dispute resolution, testing whether they are valid in the different contexts where we work with the help of external researchers. This allows our expert staff to regularly reassess the impacts of our work, making programs more effective.

 **The Asia Foundation**

HEADQUARTERS
465 California Street,
9th Floor
San Francisco, CA 94104 USA
Tel: (415) 982-4640
Fax: (415) 392-8863
sf.general@asiafoundation.org

www.asiafoundation.org