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The Additional Benefits of Community-Based Mediation

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by Akbar Kabani

A community can be based on a common culture, faith, geography, industry, affinity, or cause. When a sense of cohesion ties people together in a community, such a community has a strong interest in preserving this cohesion. However, as amongst all groups of people, disputes arise between members of even the most closely-knit communities.

Fortunately, assorted dispute resolution processes can address specific nuances of these disputes. ADR, in particular, can have a very positive impact in resolving a dispute within a community while maintaining or even enhancing community cohesion. In addition, resolving a dispute through an ADR body *within the community* can be more beneficial for the disputants than resolving the dispute through other means.

Using an ADR body within a cohesive community provides several unique benefits. First, members of cohesive communities are often encouraged to amicably resolve their disputes with each other sooner rather than later. In light of a community's interest in the well-being of its members and in the members' sense of belonging within the community, the early resolution of disputes is a significant attribute of close-knit communities because it limits the anxiety and hostility that generally increase as a dispute progresses.

One illustration of an ADR body within a cohesive community is the Aga Khan Conciliation and Arbitration Board (CAB), which assists members of the Ismaili Muslim community in resolving commercial and family disputes. As a result of CAB's efforts to spread awareness in the Ismaili Muslim community about the advantages of mediation (including the impartiality, confidentiality, cost efficiency, and voluntary nature of the mediation process), a large majority of disputes come to CAB without prior litigation.

While some cases require formal discovery before mediation can be employed, a large number of early-stage cases can be successfully resolved through voluntary mediation. Skilled mediators can facilitate the exchange of documents and other information between parties without the added expense involved in formal discovery.

Second, the mediator in a community-based ADR organization will have a good understanding of the common element between the parties that ties them together as part of the same community. In mediation, such insight by a mediator allows him/her to more easily incorporate communal aspects into the mediation process, thereby helping the parties consider and explore a more holistic approach to resolving their conflict. In CAB, for instance, the mediators' understanding of the Ismaili community's social fabric, as well as of the values espoused by the community, helps parties reflect on the probability, or sometimes even the necessity, of their future interactions with each other and consequently on their relationships with each other even beyond their business or family structures. Such reflection makes it possible for parties to assess more holistically what outcomes are in their best interests.

Third, a cohesive community's ADR organization will likely focus on initiating a restorative healing process for parties. Given a community's interest in the well-being of its members, a close-knit community's ADR organization would likely give special attention not only to resolving disputes between its members but

also to assisting them in beginning to heal from the pain that they have experienced. CAB, for instance, refers to this healing component as part of its “bandaging the wounds” approach, in which particular attention is given to demonstrating empathy, assisting parents in considering the needs of non-party children, conducting forward-looking end-of-mediation sessions, following up with the parties post-mediation, assisting parties in identifying self-help resources, and assisting parties in connecting with organizations that deliver economic support services, physical and mental health services, and social welfare services. While resolving the dispute itself can impact tangible issues for parties and help them to close the chapter on a difficult experience in their lives, adding a focus on restorative healing sets the parties and their families on a path toward rebuilding their lives and returning to harmony.

When clients who are part of a cohesive community find themselves in a dispute with another member of that community, find out if the community has a relationship with an ADR organization. After some diligence, if you and your client are satisfied with the quality of service offered by that ADR organization, opting for ADR services through the community’s organization could result in numerous unique benefits for your client.

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