
JUSTICE BEYOND PUNISHMENT: EXPLORING THE EFFICACY OF VICTIM-OFFENDER MEDIATION

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ABSTRACT

Restorative justice, as a framework for addressing crime and conflict, emphasises restoration, accountability, and reconciliation between victims and offenders. This paper examines the evolution of victim-offender mediation within restorative justice, tracing its historical roots and global adoption. It explores how victim-offender mediation emerged as an alternative to punitive justice systems, offering victims an opportunity to participate and bring forward the harm caused to them, offenders a chance to take responsibility, and communities a chance to come forward and realise the actual problems and rehabilitate both the victim and the offender. The study compares the implementation of victim-offender mediation across various jurisdictions, highlighting its cultural adaptability, legal integration, and challenges in achieving fairness and efficacy. By analysing different case studies, the paper underscores the transformative potential of mediation to repair harm and reduce recidivism. Ultimately, it advocates for greater recognition of restorative practices in legal frameworks and calls for a balanced approach that respects the rights of all stakeholders while ensuring justice. It shall also include the analysis and the way forward towards the end.

Keywords: Restorative Justice, ADR, Criminal law, Victim-Offender Mediation, Plea Bargaining, Cyber Crimes, India.

Introduction

The word 'restorative' finds its origin in the term 'restore', which translates to *'to bring back to or put back into a former or original state'*. A popular definition given by Tony Marshall defines "restorative justice" as "a process whereby all parties with a stake in a specific offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future".¹

Restorative justice rests upon a tripartite arrangement among the victim, the community and the offender. The objective is also three-fold, and it rests upon firstly identifying the power given to the people *'most affected'* by the crime, secondly aiming to *'repair'* the harm caused by the crime and finally, *'rehabilitation'* of the offender. One characteristic feature of this theory is that the process is not limited to the "victim" but also includes all who are "most affected" by the crime.

Though crime is something which should never be defended on any grounds, it is important to differentiate habitual offenders, or the recidivists, and the first-time offenders usually propelled by circumstances or sudden provocations. Such people should not be pushed into the category of the recidivist and, making them irretrievable towards the society. They must be taught a lesson for their wrongs but not at the cost of ending their possibilities to rehabilitate into the society later. Thus, there is another wing that becomes part of this criminal justice system, that is the State or the government. Only the sovereign can bring changes to the legal system, and the original laws by the colonisers did not contain any victim-centric approach. There is no active involvement of the victim apart from the FIR that is registered. It is only through amendments that Indian Legislators later added provisions in the Indian Penal Code and the Code of Criminal Procedure to provide some relief to the victims and included them in the various procedures.

Numerous studies have investigated the effectiveness of victim-offender mediation, and these studies have provided promising information about the utility and ability of victim-offender mediation. This paper will revolve around finding answers to and affirming the hypothesis that VOM programmes are more suitable than the criminal justice system in certain specific offences. It will also emphasise the reduction in recidivism and helping unburden some of the

¹ Tony F Marshall, Restorative Justice: An Overview (Great Britain Home Office 1999)

criminal court's workload. Not all crimes are ideal to be resolved through this process hence we must specify the domains of applying this method. Secondly, this paper investigates the effects of VOM in decreasing recidivism or recurring crimes. Often, a criminal act is a form of revenge, in response to a prior act by the victim or his relatives. Mediation helps in curbing any further escalation and provides an amicable and long-lasting resolution.

Cailey Strauss, in his dissertation '*Face to Face: A Reflexive Thematic Analysis of Victim Offender Mediation*' submitted to the *Department of Psychology, University of Saskatchewan*, studied nine cases of victim-offender mediation in the USA and Canada and tried to analyse the effects of pre-mediation and post-mediation processes as well as the mediation process.

Mark Umbreit, in his book *Victim Meets Offender: The Impact of Restorative Justice and Mediation*, through active participation, analysed all the important aspects of victim-offender mediation with respect to the USA. He studies the role and involvement of the public in such processes and analyses the public's opinion in different cases and how they reacted to sentencing. Victim and Offender's attitude, along with emotional outcomes, also find important role in his study. He ends his research by discussing the final satisfaction attained by both parties.

Another important push to this system is discussed in detail by Florian Bonnensteffen², which is the use of technology in such mediation. Computers and the Internet have come up as great tools in the justice delivery system across the globe, and so such processes are no novice to technology. This method has made bringing the parties face-to-face easier and more convenient. It has removed geographical and demographic barriers in today's globalised world. The paper will also delve into the cybercrimes that have been on the rise in the past three decades, and we will try to look into the aspects of cybercrime which can be resolved through ADRs.

The psychological impact of mediation on offenders is of immense importance, as pointed out in various studies focusing on the effectiveness of VOM³. It is hypothesised that victim-

² Bonnensteffen, F., Zebel, S., & Giebels, E. (2022). Is Computer-based Communication A Valuable Addition to Victim-offender Mediation? A Qualitative Exploration among Victims, Offenders and Mediators. *Victims & Offenders*, 17(8), 1173–1195. <https://doi.org/10.1080/15564886.2021.2020946>

³ Jonas-van Dijk, Jiska & Zebel, Sven & Claessen, Jacques & Nelen, Hans. (2022). The Psychological Impact of Participation in Victim-Offender Mediation on Offenders: Evidence for Increased Compunction and Victim Empathy. *Frontiers in Psychology*. 12. 10.3389/fpsyg.2021.812629.

offender mediation increases feelings of responsibility, guilt, and shame among offenders as well as empathy toward the victim. It was hypothesised that offenders may experience reduced rejection, concerns about condemnation, threat to their social moral identity, and victim blame following victim-offender mediation.

While traditional justice emphasises laws, guilt, and punishment, and often sidelines the needs of victims and communities, the restorative justice system shifts focus to harms, relationships, and obligations, and aims for empowerment, engagement, and practical solutions.⁴

ADR

The ADR mechanism has been the spine of the legal systems around the world in the past five decades and has helped solve various problems associated with the justice delivery systems. It provides an informal, amicable and speedy dispute resolution system which helps lower the court's burden. These were the hurdles that were effectively addressed for civil disputes, but the criminal system also had to find a way to inculcate such principles to ensure justice is neither delayed nor denied. All criminal activities are considered crimes against the State, which is solely empowered to prosecute the persons involved. Though the use of ADR in criminal justice is criticised by a few, there has been a consistent growth in its application in different domains.

ADR and Criminal Law: An Interface

35 million, 1.8 million and 18 thousand; these are the number of criminal cases pending in the District Courts, High Courts and the Supreme Court of India, respectively.⁵ It is not pragmatic to have the infrastructure and resources to meet the needs of the criminal justice system in a swift manner and in a brief period. Therefore, it is better to look forward to some progressive and more pacific methods of dispute resolution which do not require many resources and rather focus on an intermediary who can regulate and reduce the procedural requirements that more often lead to delay and injustice.

⁴ Zehr, Howard. (2004). Commentary: Restorative Justice: Beyond Victim-Offender Mediation. *Conflict Resolution Quarterly*. 22. 305 - 315. 10.1002/crq.103.

⁵ NJDG-National Judicial Data Grid

Modes of ADR mechanism in Criminal Litigation: Provisions in Indian Laws

1. Plea Bargaining

In its most traditional and general sense, plea bargaining refers to pre-trial negotiations between the defendant, usually conducted by the counsel and the prosecution, during which the defendant agrees to plead guilty in exchange for certain concessions by the prosecutor. Plea Bargaining as practices in other foreign criminal justice systems are of mainly three types-

- a. Charge bargaining in which the accused pleads guilty to the less serious charge,
- b. Sentence bargaining in which, if the accused pleads guilty, less sentence will be given to him,
- c. Fact bargaining in which there is acceptance of certain facts by the accused so that the accepted facts need not be proved with evidence and in return judicial concession is granted to the accused in the sentence.

The type of plea bargaining as practiced in India is that of charge and the sentence bargaining. Before the provision is formally included in the CrPC, the reflection of it could be seen in Sec 206(1) and Sec 206(3) of CrPC⁶ and Sec 208(1) of Motor Vehicles Act 1988 in which accused may plead for petty offence and pay small fines when the case is closed.

The Plea Bargaining and its possibility in the Indian Criminal Justice System was studied by the Law Commission and recommended in its 142nd and 154th Report. It was incorporated in the CrPC in the form of Sec. 265B.⁷ Subsequently, Chapter XXIA was added in the Code of Criminal Procedure, 1973, which contains Sections 265 A to 265L, which deal with plea bargaining. These are now present under Chapter XXIII of the BNSS from Sec 289 to 300. Some of the statutory limitations to plea bargaining are-

- It is applicable in offences that do not attract punishment in the form of either death penalty, life imprisonment or imprisonment for more than seven years, along with offences affecting the socio-economic condition of the country.⁸

⁶ Sec 229 of Bhartiya Nagrik Suraksha Sanhita, 2023. (BNSS)

⁷ Criminal Law Amendment Act of 2005.

⁸ Sec 265-A of the Cr.P.C.

- It is available only to first-time offenders.⁹
- There shall be participation of the public prosecutor, investigating officer, the victim and the accused in the process.¹⁰
- The proceeding shall be in camera to ensure that the accused is participating in the process voluntarily.¹¹
- No appeal shall lie except the filing of Special Leave Petition under Art 136 of the Constitution or Writ Petition under Art 226-227 of the Constitution.

2. Probation

Probation is a technique to save certain offenders from the consequences of severe punishment. The first legislative piece on probation in India was Section 562 of the Code of Criminal Procedure, 1898. It provided for release on probation of the first offender in the discretion of the court for minor offences punishable up to two years. Further, Section 360 of the CrPC 1973 (Sec 401 of BNSS) has the provision of probation for offenders, along with the Probation of Offenders Act 1958. Under the provisions of probation, a certain class of offenders is released on a promise of good behaviour under certain limiting circumstances. Under the Probation of Offenders Act 1958, a person can be released on Probation with the following conditions:

- The offender shall be under 21 years of age.
- The offence is such that it attracts the punishment of fine or imprisonment not exceeding seven years.
- Court shall be satisfied that, as per the circumstances and the nature of the offence, it would not be desirable to send him to the gallows of prison.
- Generally considered in the case of first-time offenders.
- A report from the Probationary officer is required.

⁹ Sec 265-B of the Cr.P.C.

¹⁰ Ibid

¹¹ Ibid

The probation thus is a process by which a dispute may be resolved without completing the trial process for the offence to which the offender is charged.

3. Compounding of offences

Sec 359 of BNSS provides for compounding of offences where the victim and the offender may enter a compromise to drop charges against the accused. It also gives a table providing the list of compoundable and non-compoundable offences. In some of the less serious offences like adultery, causing hurt, defamation or trespass, permission from the court is not required for compounding the offences, whereas for offences such as criminal breach of trust, outraging the modesty of a woman, grievous hurt etc., permission from the court is required before compounding.

4. Provisions regarding 'Petty Offences' in BNSS

Taking cognisance of the Petty Offence by the Magistrate is contained in the Sec 229 of BNSS. Under this provision, if the matter is fit to be disposed of in a summary trial, and if the accused is ready to plead guilty, the case may be disposed of by imposing a fine in the matter.

5. Mediation

Mediation is a process in which a third person, mediator, intervenes and tries to resolve the dispute as a friend. This settlement may result from negotiation between the parties or through a mediator in between them. Though mediation is not followed in criminal cases, in some cases, such as cases of domestic violence, which is, as such, a criminal matter, it is encouraged to be resolved by mediation. In certain cases of criminal defamation, under Sec 138 of the Negotiable Instruments Act, the dispute is tried to be resolved through mediation. The victim and the offender in such mediation may be accompanied by their family members and the community leaders as well and may have a dialogue about the effect of the crime on their lives and may adopt a mutually agreed plan to repair the damage. The Malimath Committee¹² report also, while speaking about the role of victims in the criminal adjudicatory system, recommended the presence of victims before the court, facilitating the settlement or the compounding process.

¹² Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, 2003.

Historical Development of Victim-Offender Mediation

The use of victim-offender mediation is growing quickly as a result of the expansion of both restorative justice and the victims' movement. In ancient times, the justice system would revolve around both the victim and the offender coming face to face before the ruler or the authority, where compromise would always be the first choice of dispute resolution. This is no different from the VOM in today's world.

Due to their seriousness and the effects, they have on society, non-compoundable offences cannot be resolved. But in some cases, resolution by mediation is allowed even though they are aspects of crime. The Indian Courts have frequently allowed ADR in non-compoundable matters.

In the case of *Dayawati v. Yogesh Kumar Gosian*¹³ the question before the Delhi High Court was whether the Mediation and Conciliation Rules, 2004, formulated under the CPC, are applicable in criminal cases. The Court first referred to the case *Afcons Infrastructure v. Cherian Varkey Constructions*,¹⁴ where the Supreme Court provided a list of cases where ADR is appropriate and valid. This list specifically excluded the cases involving criminal prosecution, but the list was not exhaustive. The Delhi Court then observed that it could not trace any reason for not applying the principles contained in Order XXIII Rule 3 of C.P.C. while considering a settlement under Sec. 320 of Cr.P.C. or Sec. 147 of the NI Act.

In the case of *B.S. Joshi and others v. State of Haryana*¹⁵, the Supreme Court observed that "in view of the special facts and circumstances of the case, quashing criminal proceedings under exercise of powers under Sec 482 Cr.P.C. is allowed even where the offences were non-compoundable."

In *K. Srinivas Rao v. D.A. Deepa*¹⁶, the Supreme Court stated that in suitable situations, the criminal court should advise the parties to consider the prospect of settling through mediation while maintaining the rigour, effectiveness, and intent of the non-compoundable offence.

VOM, though sound for convenient dispute resolution, are considerably criticised for being

¹³ (2017) ibclaw.in 333 HC

¹⁴ [2010 (8) SCC 24]

¹⁵ AIR 2003 Supreme Court 1386

¹⁶ AIR 2013 Supreme Court 2176

against the rule of law and public policy in general. The rule of law permits only the sovereign to exercise judicial authority over criminal matters and not any private authority. So, specificity and certainty are absent as to what can be mediated and what cannot. The Courts, through their judgments, have tried to address this issue until the legislature finally codifies the list. We can say from the analysis of various courts' opinions that VOM can be used successfully in the following cases -

- Less serious criminal offences- For instance, a reckless driving-related accident. In such a situation, the perpetrator would be able to explain why it occurred and would also have the chance to somewhat directly repay the victim.
- Domestic violence situations because everyone involved is a family. It both empowers women who are hesitant to reach out to the justice system and also curbs the number of false cases.
- Cases falling under the Juvenile Justice Act as it would provide minor offenders extra attention and reduce the possibility of being imprisoned.
- Cases involving financial frauds where reparation is more important than punishment.

Advantages of VOM

VOM has taken the centre stage in most of the jurisdictions as a preferred means of dispute resolution. This is because of the immense superiority that it has over procedures compared to other conventional adjudications. Some of them are pointed below-

- Help offenders understand the impact of their crime and hold them accountable for compensating the victim for their losses.
- Mediation encourages the concepts of restitution and forgiveness, and there was a lower chance of recidivism for offenders.
- Mediation matters are private affairs, whereas court trials are public record. ∞ The cost of mediation is also far lower than that of traditional litigation, which includes charges such as court costs, attorney fees, etc.

- Imposes a lower evidence burden on the complainant to support their claims. ∞ Mediation promises a quicker conclusion, diminishing the pain experienced by the victim.
- Because they create the solution themselves to best suit their interests, the parties are therefore more likely to be content as they lack a final ruling that dissatisfies either one party or both parties.
- The idea can be applied to the issue of prison overpopulation in India. Giving inmates access to a mediation procedure can have transformative effects.
- Safety of victim is assured and deciding the time and venue is also sometimes with their consonance.

Victims who take part are given the chance to speak up, confront the emotional damage brought on by the crime and its aftermath, and ask for restitution. By sincerely apologising to the victim and promising to change his ways, the offender shows that he understands the victim's situation and is trying to right the wrongs. VOM programmes operate rather independently of one another, and mediators frequently settle cases with little interaction. The interviewees attributed this isolation to either a lack of resources or geographic isolation.

Technological Advancement and VOM

The 21st century is the era of computers and technology, and face-to-face conversations are an important part of computer-based communication (CBC) prevalent today. Post-pandemic, CBCs have gained considerable significance, and the justice system is no exception to its application. Scholars around the world have agreed that face-to-face is the richest form of communication. The Courts pressed for online hearings during lockdown, and the convenience didn't go unnoticed later. Bonensteffen's research¹⁷ tries to emphasise the advantages and disadvantages of CBC in VOM and also throw light upon the usefulness of such means in the real world. They opt for semi-structured interviews of victims, offenders and mediators to generate qualitative data. Most of the subjects agreed that face-to-face is the most influential

¹⁷ Florian Bonensteffen, Sven Zebel & Ellen Giebels (2022) Is Computer based Communication A Valuable Addition to Victim-offender Mediation? A Qualitative Exploration among Victims, Offenders and Mediators, Victims & Offenders, 17:8, 1173-1195

form of mediation.

The first question of their study tried to explore the advantages and disadvantages of CBC in VOMs. He divided advantages into 'interpersonal and practical advantages'.¹⁸ Interpersonal advantages include 'perceived environmental safety', 'emotional distance', and 'richness of information'. The practical advantages consist of 'logistic efficiency' and 'control'. Security of the victim is of utmost importance, and it shall never be risked or compromised. It is the duty of the state to ensure a safe environment for the parties to show their real emotions and have their say without any coercion. Also, the chief advantage of this system is logistical ease and remote access, which makes it one of the fastest and most convenient modes of dispute resolution. The procedure and result neither is bound by any law except for violations of fundamental rights and thus is also the most satisfactory method of dispute resolution where both parties are generally satisfied.

Disadvantages are also necessary to be taken into account. The disadvantages include 'lower richness of information' and 'emotion expression' when compared to face-to-face mediation.

Other disadvantages include 'the atmosphere', 'the mediator's influence', 'privacy concerns' and 'dependence on technology'. Emotions in physical presence are very different from those over video conferencing. The interpretation of emotional state is not completely true and neither the physical recreation of happenings. Fear, insecurity, anger or embarrassment neither is accurately depicted. The mediator's influence is also diminished, and many times he is unable to control the escalating situations. Many people are afraid of online privacy concerns, which pushes them back from adopting such measures. People are afraid of being recorded as well as being seen by unwanted people unknowingly. Technical malfunctions also bring serious challenges, and sometimes it may be used as a defence mechanism by either party. These problems, although they exist, still aren't a ground big enough to not promote a dialogue between the injurer and the injured.

This research was conducted prior to 2020, and the world has seen a tremendous rise in technology in these five years, with the global pandemic being one of the chief reasons for this propulsion. Things have come far ahead in 2025, and the use of technology should be promoted by all Courts for such arrangements, ensuring efficiency and convenience. Even people living

¹⁸ Ibid, 1182

in remote areas can connect to the authorities easily and be part of the proceedings. The offender can also be presented even during incarceration or from foreign lands.

Effect of VOM in reducing recidivism

The recurrence of criminal behaviour after punishment or incarceration for previous crimes is known as recidivism. Recognising recidivism is crucial for policymakers, criminal justice professionals, and society as well to reduce reoffending and facilitate successful reintegration into communities. The rates of recidivism are quite variable in different jurisdictions and demography and high recidivism rates strain the criminal justice system and lead to overcrowding of prisons.

Several systemic barriers impede the social reintegration of offenders, which further becomes a major reason for recidivism. Some of these systemic barriers are stable housing, education, employment opportunities, and healthcare. Individuals with criminal records often face discrimination, which increases their likelihood of reoffending to survive.

Another important role is played by psychological factors, where substance abuse, mental health disorders or unresolved trauma can lead to recidivism. Individuals involved in crimes like drug trafficking, theft, adultery or prostitution become habitual and dependent on these activities, and there is no way out for them. After a point, it becomes a necessity for survival due to a lack of other available opportunities. So, it is equally important to reintegrate such people into society as it is to punish them. This is a subjective question and must be dealt on a case-to-case basis, and a comprehensive approach is required. The government, police and society have to work together to ensure recidivism is prevented.

Various research studies available in different jurisdictions affirm the positive effects of VOM on curbing recidivism. But critics have always pointed upon biasness in the selection of subjects which needed to be addressed. Dijk, Zebel and Nelen in their research¹⁹ tried to address this issue through groups of randomised subjects including offenders who participated in VOM; offenders who were willing to participate but whose counterpart declined VOM; and offenders unwilling to participate. The sample size was over a thousand, providing reliability and credibility to the results. The results replicated and confirmed the previous findings that

¹⁹ Jonas-van Dijk, J., Zebel, S., Claessen, J., & Nelen, H. (2020). Victim–Offender Mediation and Reduced Reoffending: Gauging the Self-Selection Bias. *Crime & Delinquency*, 66(6-7), 949-972.

VOM does affect recidivism and rejected the selection bias criticism.

Harris, Walgrave and Braithwaite²⁰ argue that “when an offender experiences guilt, it is inevitable that he also experiences feelings of shame. It is important to help the offender deal with these feelings of shame, by emphasising the positive characteristics of the offender.” This so called reintegrative shaming is often considered central to restorative justice and the lower risk of reoffending that may emerge afterwards.²¹ Through the discussion, the offender might grow on a moral level, and this might help prevent him from reoffending in the future.²² Restorative justice also enables the victim to explain the consequences of the crime and how it impacted his or her life to the offender.²³ This certainly develops a feeling of empathy for others which sparks a pro-social behaviour in him. The results that were found are that offenders who are not willing to participate in mediation have a higher risk to reoffend compared with offenders who participated in (semi-)mediation, but not compared to the control group of offenders who were willing but did not participate in VOM. Furthermore, offenders in the control group did not differ significantly from the mediation groups, which indicates that offenders who were willing but unable to participate in VOM occupied an intermediate position between the court and (semi-)mediation groups in terms of their prevalence rate of reoffending.²⁴ So we can conclude that the beneficial impact VOM seems to have on reoffending might be a combined effect of offenders’ willingness to take restorative steps and take part in VOM, as well as the VOM encounter itself (and subsequent arrangements made) with the victim.²⁵

VOM and Cyberspace

The Victim-Offender Mediation attempts "to repair or to restore and to bring back the victim from the state of the harm suffered and to make things right".²⁶ In *B.S. Joshi v. State of*

²⁰ Harris N., Walgrave L., Braithwaite J. (2004). Emotional dynamics in restorative conferences. *Theoretical Criminology*, 8, 191-210.

²¹ Harris N., Walgrave L., Braithwaite J. (2004). Emotional dynamics in restorative conferences. *Theoretical Criminology*, 8, 191-210.

²² Fellegi B. (2008). The impact of restorative justice explained. The interaction between morality, neutralization, shame and, social bonds]. 2008

²³ Umbreit M. S., Coates R. B., Vos B. (2004). Victim-offender mediation: Three decades of practice and research. *Conflict Resolution Quarterly*, 22, 279-303.

²⁴ Harris supra note 30

²⁵ Lauwaert K., Aertsen I. (2016). With a little help from a friend: Desistance through victim-offender mediation in Belgium. *Restorative Justice*, 4, 345-368.

²⁶ Keating, Gregory C. "The priority of respect over repair." *Legal Theory* 18, no. 3 (2012): 293-337.

*Haryana*²⁷, it was held by the Hon'ble Supreme Court that, "If the parties have mutually agreed to settle disputes amicably, then further subsequent proceedings would defeat the purpose of Section 498A of the IPC...".

The 129th Law Commission Report makes it mandatory for the Courts to refer matters to Alternate Dispute Resolution, including Mediation for settlement of disputes. The growing number of commercial cases in the Courts makes it imperative that there is an emergent need to explore alternate modes of settlement which have civil and criminal implications. The chief advantages of mediation in commercial disputes are the potential saving in 'goodwill', cost and revenue and avoiding the long pendency of investigation, inquiry, trial and pronouncement of judgment. After the Salem Advocate Bar Association case²⁸, the role of mediation as a potential tool to resolve disputes stands more firmly established. There have been certain psychological and mental issues of the offender not physically present face-to-face but rather taking refuge in the veil of the internet and cyberspace. Though Afcons Infrastructure Ltd²⁹, made it clear that cases involving prosecution for criminal offences and cases involving serious fraud, fabrication of documents, and disputes pertaining to election to public offices cannot be fit for mediation; still, the petty criminal offences including that of cybercrimes pertaining to child bullying and offences related to family matrimonial disputes, which are of 'compounding' nature, should be explored in the realm of mediation and restorative justice. The types of cyber offences that can be mediated are³⁰:

- Disclosure of personal information for a credit card transaction.
- Cyber insurance coverage disputes.
- Cybersecurity failure issues.
- High-profile data breaches.
- Coverage matters.
- Invasion of privacy disputes.

²⁷ B.S. Joshi v. State of Haryana (2003) 4 SCC 675

²⁸ Salem Advocate Bar Association v. Union of India, 2003 (1) SCC 49

²⁹ Afcons Infrastructure Ltd. and Anr. v Cherian Varkey Construction Co. Pvt. Ltd. and Ors. (2002) 8 SCC 24

³⁰ Using Mediation to Resolve Cyber Security Disputes | Mediation Matters 2019

- Class action lawsuits regarding data breaches or privacy violations.
- Cases involving violations of state privacy laws.

Conclusion

Restorative justice attempts to draw upon the strengths of both the offenders and the victims, rather than focusing upon their weaknesses. The courts all around the world have recognised the benefits of informal resolution over formal adjudication and India too is following the steps to cater its unique problems. There is very meagre data upon such resolution in reality because mediation is a private affair and absent from public records. But the crowd outside family courts and mediation centres is a testimony to the extensive adoption of mediation. The final analysis is that VOM is undoubtedly an undisputed resolution mechanism, especially in today's India. India is in a development phase and people are more worried about timely justice rather than complete justice. People are lesser blissed in getting a person imprisoned, for a not so serious injury, but rather are overjoyed and satisfied upon getting reparations for their loss. But this does not mean that everything can or shall be valued and justice be constricted to monetary amounts. It must be reasonably ascertained whether application of this process has more pros or cons. Individual rights are important, but never at the cost of community or social rights. Hence, the time has come that a detailed codification shall be undertaken by the Union as well as the state legislatures as per their domains and relieve the judiciary from such interpretations which take longer time and a lot of resources. Also, the courts shall be relieved of some of the burden, especially the trial courts where the delays are maximum. The legislature must ascertain the specific domains and possibly the offences which can be mediated between the two parties and provide the guidelines of the mediation process, making it further easy and convenient. It should focus upon adopting the latest technology and further simplifying the process and justice delivery. To conclude, victim-offender mediation (VOM) has emerged as a highly effective restorative justice mechanism, addressing key challenges in traditional criminal justice systems. By fostering direct communication between victims and offenders, VOM not only promotes emotional healing and accountability but also significantly contributes to reduced recidivism rates, as offenders are more likely to realise and understand the consequences of their actions and avoid repeat offences. The process facilitates the speedy disposal of cases, bypassing the lengthy procedures of conventional court systems, thereby offering timely resolution to both parties. Moreover, restitution, a core principle of VOM,

ensures that victims receive tangible and emotional reparations, restoring a sense of efficient justice. Additionally, VOM is a cost-effective alternative, reducing the burden on overcrowded courts and minimising the financial strain on the state. As a solution to overcrowded prisons, VOM has come a long way in the 21st century, and the aid by computer and technology has made it way more significant. Overall, victim-offender mediation embodies a balanced approach to justice that benefits victims, offenders, and society, making it a valuable component of modern criminal justice reform.