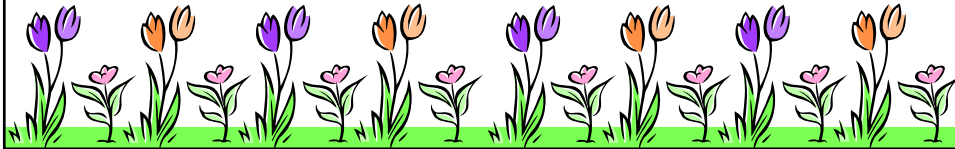


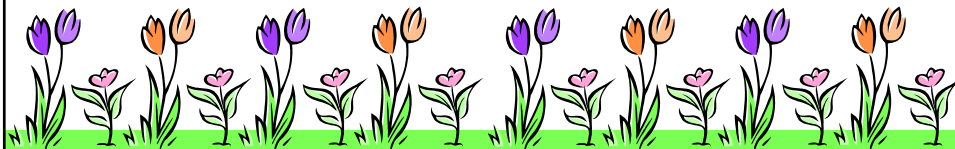
Capturing Access and Gender Dimension of Mediation

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JURIS Local Project Director
August 9, 2007



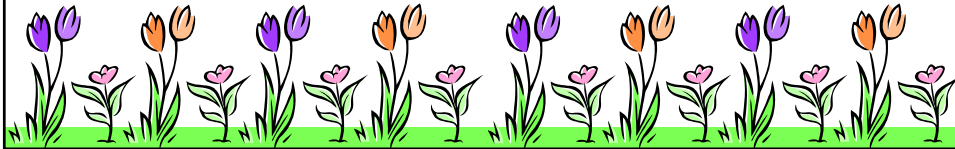
What is mediation?

- Mediation is a process of assisted negotiation that relies on a neutral third party (mediator) to help parties reach a mutually agreeable solution
- In JURIS, mediation is done by the judge or an accredited mediator after a case is filed and during the pre-trial stage



Conventional wisdom on mediation

- Is faster and cheaper in resolving cases, therefore promoting greater access to justice
- Empowers the party to seek a mutually agreeable settlement to their dispute
- Neutralizes power imbalances between the parties based on class, gender, educational status and others



What's the real score?

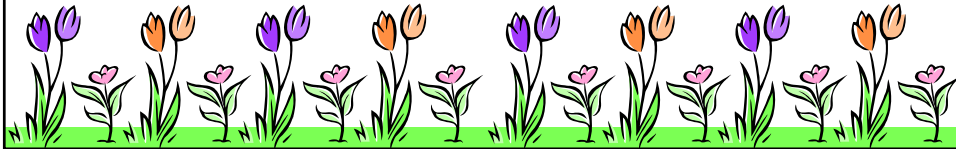
Access to Justice and Effectiveness of ADR Approaches (Guillen: 2007)

- 53% of respondents were women
- 76% of respondents said that mediation contributed to access to justice
- 69% said that there is fairness / justness in the mediation process
- 59% said that there is fairness / justness in the mediation outcome



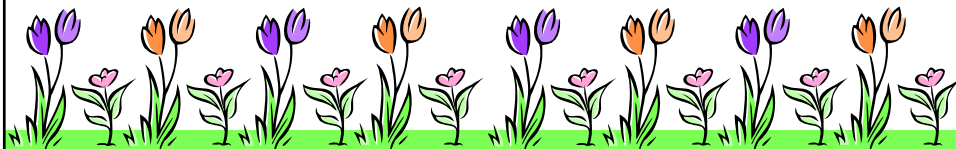
Gender in ADR

- An even split of male to female litigants involved in settlement of cases (648:643)
- Slightly higher percent (56%) of male litigants involved in cases not settled (262:203)



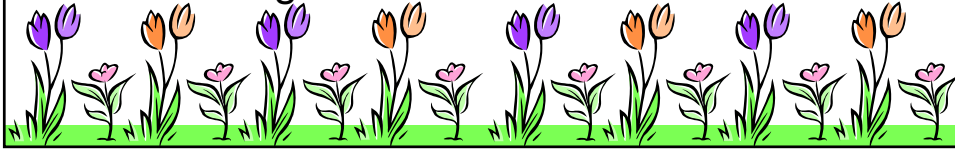
Gender in ADR

- Slightly higher percent (54%) of male litigants involved in refused cases (213:177)
- Higher percentage (60%) of women mediators involved in the settlement of cases (771:519)



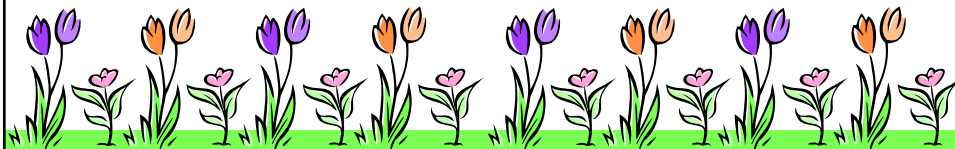
Gender Guide for Mediators and Judges

- The Female Approach to Mediation – more collaborative, seeking for joint solutions, nurturing and preserving relationships, meeting mutual needs rather than enforcing rights
- The Male Approach to Mediation – competitive, adversarial, seeking to enforce rights



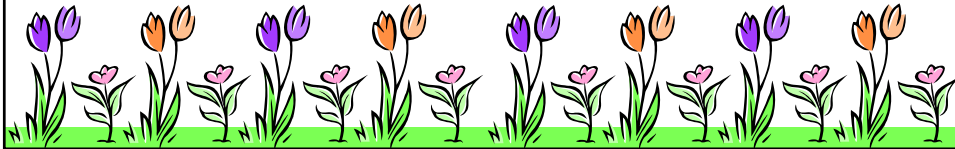
What's the complete picture?

- Statistics does not tell the whole story
- How do women really feel and experience the mediation environment?
- Is it true that the male/ female approach to mediation is competitive/ cooperative?
- The need for a more qualitative approach to uncovering the gender dimension



Research and Technical Studies

- JURIS has a research and technical studies component for cutting edge issues in the area of ADR and Reform Advocacy
- Budget of Cdn470,000
- Commissioned a Research on The Gender Dimension of Mediation: Problems, Prospects and Recommendations



How about gender equality?

Research question 1

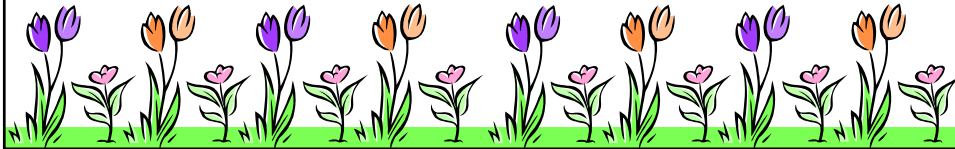
- What are problems or difficulties faced by women especially the poor and marginalized in the entire mediation process including from accessing it through enforcement of an agreement? Does gender bias or power imbalance manifest in mediation? How does it affect the effective access to and benefit from mediation by women?



How about gender equality?

Research question 2

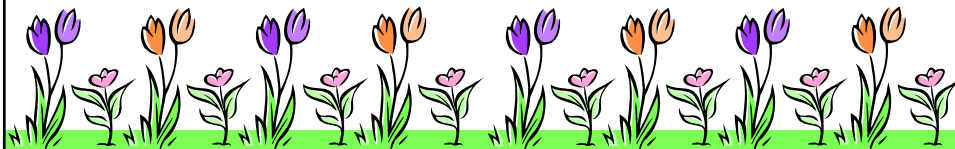
- What are the effects of mediation on women disputants especially the poor and marginalized including on their circumstances and empowerment? Do laws, processes, and practices related to mediation affect differently women and men? Do they affect differently individual women because of class, education, ethnicity and other factors?



How about gender equality?

Research question 3

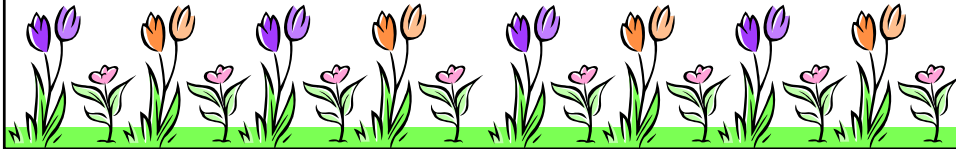
- What factors contribute to women's satisfaction or dissatisfaction over the process and outcome of mediation including their perceptions of justice having been served or not and their interests having been promoted or not in mediation?



How about gender equality?

Research question 4

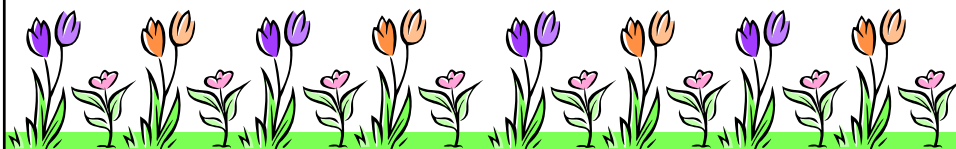
- What are the perceptions of women on mediation and the court system? What practical needs in their view should be addressed and what other recommendations do they have so that women can effectively access and benefit from mediation?



How about gender equality?

Research question 5

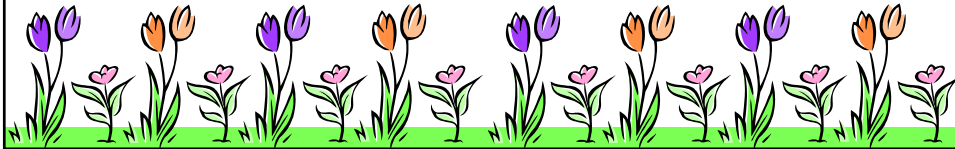
- What practices including gender-sensitive communication and other approaches adopted by mediation practices promote gender equality in mediation? What factors help in encouraging mediators and JDR judges to adopt them?



How about gender equality?

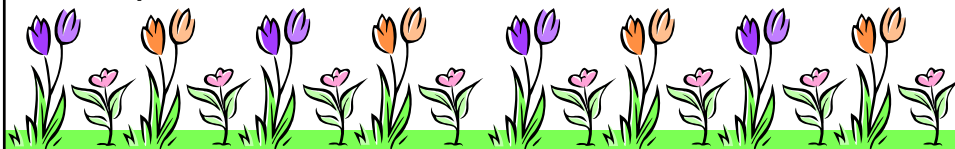
Research question 6

- What policy, administrative or other measures can be recommended to further promote gender equality in access to justice through mediation?



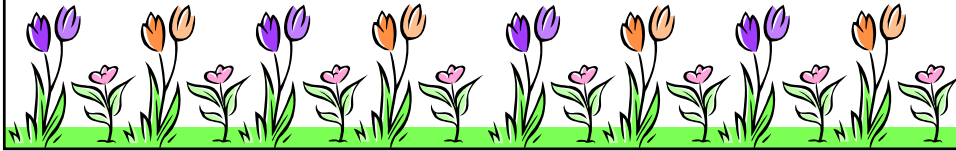
Methodological Approaches

- Focus group discussion with the key emphasis on women litigants
- Key informant interviews with special focus on mediators, judges, counsel for women disputants and key persons from NGOs and other institutions
- Process observations in actual mediation sessions where a mediator, a women disputant and her counsel are involved



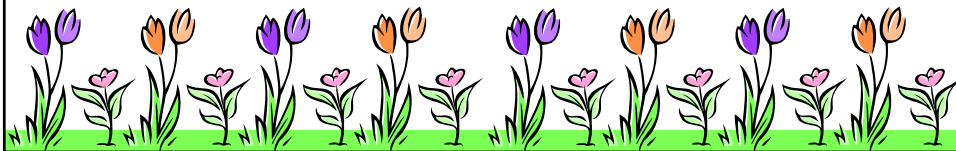
Usefulness of the study

- Uncovering possible gender bias or uneven power relationships in a mediation setting
- Taking steps to level the playing field and remove gender bias
- Improving the skills of mediators and judges in the mediation process



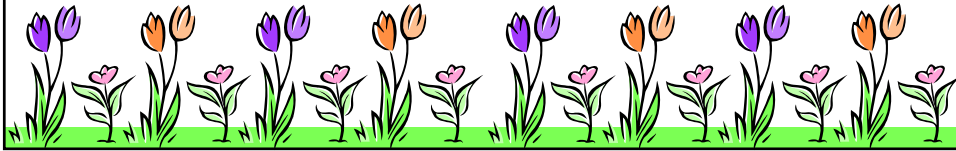
Usefulness of the Study

- Has implications far beyond the court setting and could be used for labor, agrarian, intellectual property and other tribunals that have a mediation/ negotiation/ arbitration phase



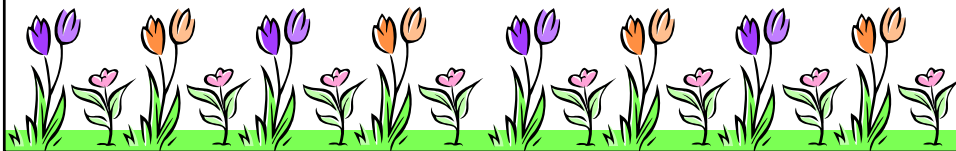
Just think about it

- All over the country there are about 900,000 cases pending in any given year
- About half of these cases involve women
- About 40% of mediators are women and about 30% of judges are also women



The impact of gender in mediation

- Improving the mediation skills of judges and mediators, and sensitizing lawyers on gender bias and unequal power relationships could make mediation a more just, equitable and gender friendly mode of dispute resolution



THANK YOU AND A
PLEASANT DAY TO ALL

