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The Role of Mandatory Mediation in Shaping the Future of Civil Justice in India

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ABSTRACT

India's civil justice system is currently grappling with an overwhelming backlog of cases, leading to significant delays in the delivery of justice and eroding public trust in the judiciary. As of June 2024, over 51 million cases are pending across various courts in the country, with the majority in district and subordinate courts. This backlog is attributed to various factors, including a shortage of judges, procedural delays, and limited adoption of alternative dispute resolution mechanisms. To address this crisis, the Indian government has introduced mandatory mediation as a viable alternative dispute resolution mechanism. The enactment of the Mediation Act, 2023, institutionalizes mediation practices, aiming to reduce litigation and expedite justice delivery. This Act provides a comprehensive legal framework for mediation in India, mandating parties to attempt mediation before initiating legal proceedings. It also establishes the Mediation Council of India, a regulatory body to oversee mediation practices, accredit mediators, and promote mediation awareness. Additionally, the Act grants legal recognition to settlements reached through mediation, ensuring their enforceability. Mediation has emerged as an effective tool in resolving disputes and reducing the burden on the judiciary. Studies indicate that mediation centers in India achieve settlement rates ranging from 62% to 80%, highlighting its efficacy in facilitating amicable resolutions. Furthermore, the cost of mediation is significantly lower than traditional litigation, often amounting to only 10-20% of the expenses incurred in court proceedings. This cost-effectiveness, coupled with

the efficiency and flexibility of the mediation process, makes it an attractive option for parties seeking to resolve disputes while keeping expenses manageable. The adoption of mediation has also led to a notable increase in case disposals. For instance, over 110,000 cases were settled through mediation between April 2022 and June 2023, demonstrating its growing acceptance and success in the Indian legal landscape. Despite these advancements, challenges remain in the widespread adoption of mediation. Many individuals are unaware of mediation as an option, leading to underutilization. Additionally, the effectiveness of mediation depends on the availability of skilled mediators, which is currently limited. Some lawyers and judges may also be reluctant to embrace mediation, preferring traditional litigation methods. To enhance the effectiveness of mandatory mediation in India's civil justice system, several measures are recommended. These include launching nationwide campaigns to educate citizens about the benefits and processes of mediation, developing standardized training programs for mediators, incorporating mediation into law school curricula and continuing legal education programs, investing in establishing mediation centers across the country, particularly in rural and underserved areas, and implementing systems to monitor the effectiveness of mediation practices and make data-driven improvements. By adopting these strategies, India can strengthen its civil justice system, reduce case backlogs, and promote a culture of amicable dispute resolution through mandatory mediation. The Mediation Act, 2023, provides a robust legal framework to institutionalize mediation practices. However, to realize its full potential, concerted efforts are required to raise awareness, build capacity, and integrate mediation into the broader legal ecosystem. Through strategic policy interventions and a commitment to fostering a culture of dialogue and collaboration, India can pave the way for a more accessible, efficient, and equitable justice system.

KEYWORDS

Litigation, Mediation, Judicial backlogs.

INTRODUCTION

India's civil justice system is currently grappling with an overwhelming backlog of cases, leading to significant delays in the

delivery of justice and eroding public trust in the judiciary. As of December 2024, over 51 million cases are pending across various courts in the country, with the majority in district and subordinate courts.¹ This backlog is attributed to various factors, including a shortage of judges, procedural delays, and limited adoption of alternative dispute resolution mechanisms.

CASES PENDING IN HIGH COURTS				ALL INDIA: 59,57,454	
High Court	Pending cases*		High Court	Pending cases*	
Allahabad	10,26,417	<div></div>	Telangana	2,58,932	<div></div>
Rajasthan	6,05,215	<div></div>	Patna	2,20,403	<div></div>
Bombay	5,92,583	<div></div>	Andhra Pradesh	2,35,482	<div></div>
Madras	5,63,595	<div></div>	Calcutta	2,15,859	<div></div>
Punjab & Haryana	4,50,527	<div></div>	Odisha	1,85,567	<div></div>
Madhya Pradesh	4,17,003	<div></div>	Gujarat	1,58,512	<div></div>
Karnataka	2,96,965	<div></div>	Delhi	1,05,814	<div></div>

*As of July 22, 2022

To address this crisis, the Indian government has introduced mandatory mediation as a viable alternative dispute resolution mechanism. The enactment of the Mediation Act, 2023, institutionalizes mediation practices, aiming to reduce litigation and expedite justice delivery. This Act provides a comprehensive legal framework for mediation in India, mandating parties to attempt mediation before initiating legal proceedings.² It also establishes the Mediation Council of India, a regulatory body to oversee mediation practices, accredit mediators, and promote mediation awareness. Additionally, the Act grants legal recognition to settlements reached through mediation, ensuring their enforceability.

Mediation has emerged as an effective tool in resolving disputes and reducing the burden on the judiciary. Studies indicate that mediation centres in India achieve settlement rates ranging from 62% to 80%, highlighting its efficacy in facilitating amicable resolutions.³ Furthermore, the cost of mediation is significantly

¹ "Will more judges help reduce case backlog?," *Supreme Court Observer* available at: <https://www.scobserver.in/journal/will-more-judges-help-reduce-case-backlog/> (last visited May 8, 2025).

² PMF IAS CA Team, "Institutionalisation of Mediation: Legal Framework, Benefits & Progress" *PMF IAS*, 2025 available at: <https://www.pmfias.com/mediation/> (last visited May 8, 2025).

³ "The Role Of Mediation In Resolving India's Backlogged Cases: A Critical Analysis Under The Bharatiya Nyaya Sanhita (BNS) » Lawful Legal," 2024 available at: <https://lawfullegal.in/the-role-of-mediation-in-resolving-indias-backlogged-cases-a-critical-analysis-under-the-bharatiya-nyaya->

lower than traditional litigation, often amounting to only 10-20% of the expenses incurred in court proceedings. This cost-effectiveness, coupled with the efficiency and flexibility of the mediation process, makes it an attractive option for parties seeking to resolve disputes while keeping expenses manageable.⁴

The adoption of mediation has also led to a notable increase in case disposals. For instance, over 110,000 cases were settled through mediation between April 2022 and June 2023, demonstrating its growing acceptance and success in the Indian legal landscape.⁵

Despite these advancements, challenges remain in the widespread adoption of mediation. Many individuals are unaware of mediation as an option, leading to underutilization. Additionally, the effectiveness of mediation depends on the availability of skilled mediators, which is currently limited. Some lawyers and judges may also be reluctant to embrace mediation, preferring traditional litigation methods.

To enhance the effectiveness of mandatory mediation in India's civil justice system, several measures are recommended. These include launching nationwide campaigns to educate citizens about the benefits and processes of mediation, developing standardized training programs for mediators, incorporating mediation into law school curricula and continuing legal education programs, investing in establishing mediation centers across the country, particularly in rural and underserved areas, and implementing systems to monitor the effectiveness of mediation practices and make data-driven improvements.

By adopting these strategies, India can strengthen its civil justice system, reduce case backlogs, and promote a culture of amicable dispute resolution through mandatory mediation. The Mediation Act, 2023, provides a robust legal framework to institutionalize mediation practices. However, to realize its full potential, concerted efforts are required to raise awareness, build capacity, and integrate mediation into the broader legal ecosystem.⁶ Through strategic policy interventions and a commitment to fostering a culture of dialogue and collaboration, India can pave

sanhita-bns/ (last visited May 8, 2025).

⁴ Samantha Britz, "Mandatory mediation as a dispute resolution mechanism in the civil justice system" (2018).

⁵ Gungun Agrawal, "From Conflict to Collaboration: Pre-Litigation Mediation After the Mediation Act, 2023" *NLIU Law Review*, 2024 available at: <https://nliulawreview.nliu.ac.in/blog/from-conflict-to-collaboration-pre-litigation-mediation-after-the-mediation-act-2023/> (last visited May 8, 2025).

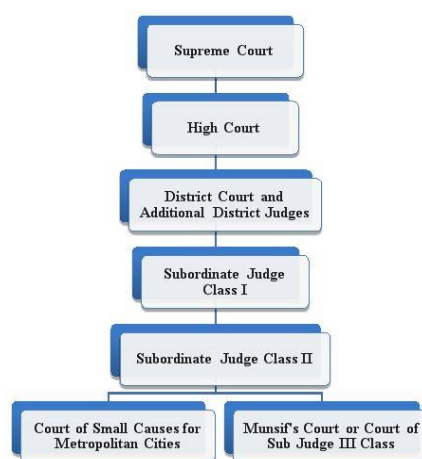
⁶ Jacqueline M. Nolan-Haley, "Court Mediation and the Search for Justice through Law," 74 *Washington University Law Quarterly* 47 (1996).

the way for a more accessible, efficient, and equitable justice system.

LEGAL FRAMEWORK SUPPORTING MANDATORY MEDIATION IN INDIA

India's civil justice system continues to face the staggering challenge of a massive backlog of cases, with over 51 million cases pending across courts at various levels as of December 2024. The district and subordinate courts account for the majority of these pending matters, creating systemic delays that affect timely access to justice. This judicial congestion not only overwhelms the courts but also erodes public confidence in the effectiveness of the legal system. Recognizing the urgent need for reform, the Indian government enacted the Mediation Act, 2023, a landmark legislation aimed at institutionalizing mediation as a mainstream alternative dispute resolution mechanism. The objective is to ease the courts' burden by promoting amicable and timely resolution of disputes outside traditional litigation.

Hierarchy of the courts



At the heart of the Mediation Act, 2023, is the mandate for pre-litigation mediation. This requires disputing parties to make a genuine attempt at mediation before initiating formal court proceedings. The goal is to encourage early negotiation and dialogue, thereby resolving disputes through mutual understanding and cooperation. This early intervention model significantly reduces the number of disputes that escalate into full-fledged lawsuits, preserving judicial time and energy for more complex legal battles. By resolving cases before they even reach the courtroom, pre-litigation mediation serves as a critical filter, allowing only those cases that truly need judicial adjudication to proceed.

The Act also introduces the Mediation Council of India, a statutory

body that regulates the standards of mediation practice in the country. It is responsible for accrediting professional mediators, maintaining a national register of qualified practitioners, and conducting training and awareness programs.⁷ This central regulatory authority ensures consistency, integrity, and professionalism across all mediation activities, thus increasing public trust in the process. Furthermore, it plays a pivotal role in promoting mediation awareness among the legal fraternity and the general public, thereby creating a supportive ecosystem for dispute resolution.

One of the most empowering features of the Mediation Act is the enforceability of mediated settlement agreements. These agreements are given the same legal weight as a court decree, meaning they are binding and enforceable under the law. This statutory recognition of mediated outcomes removes the ambiguity that often surrounds out-of-court settlements and assures parties that their agreements will be upheld.⁸ It also reassures litigants that mediation is not just a soft alternative but a firm, legitimate path to resolution with definitive legal backing.

To further enhance the efficiency of dispute resolution, the Act introduces strict timelines. The mediation process must be concluded within 120 days from the first appearance of the parties, extendable by an additional 60 days with mutual consent.⁹ This provision ensures that mediation remains swift and does not become another protracted legal procedure. It instils discipline in both the mediator and the parties, ensuring that cases are addressed promptly, and outcomes are reached without unnecessary delay.

Confidentiality and voluntariness form the ethical backbone of the mediation process. All communications during mediation are deemed confidential and cannot be disclosed in court, which encourages open and honest dialogue.¹⁰ Participation remains voluntary, and any party may withdraw at any stage, preserving the consensual nature of mediation. This legal framework creates a secure environment that promotes trust, allowing parties to speak freely and reach mutually satisfactory outcomes.

⁷ "Mediation Act, 2023," *Drishti Judiciary* available at: <https://www.drishtijudiciary.com/editorial/mediation-act-2023> (last visited May 8, 2025).

⁸ Patricia M. Wald, "Negotiation of Environmental Disputes: A New Role for the Courts," 10 *Columbia Journal of Environmental Law* 1 (1985).

⁹ Roselle L. Wissler and Art Hinshaw, "The Initial Mediation Session: An Empirical Examination," 27 *Harvard Negotiation Law Review* 1 (2021).

¹⁰ Mikheil Bichia, "Confidentiality of the Mediation Process and Ethical Dilemmas," 2023 *Alternative Dispute Resolution Yearbook* 41 (2023).

The Mediation Act also accommodates technological innovation by recognizing online mediation as a legitimate method. Parties can participate through virtual platforms with written consent, making the process more accessible, especially for individuals in remote or underserved areas. Online mediation is a forward-looking feature that aligns with India's growing digital infrastructure and the lessons learned from the pandemic era, during which virtual legal proceedings became the norm. This provision enhances inclusivity and modernizes dispute resolution in line with digital governance goals.

An additional innovation is the provision for community mediation, where disputes affecting neighborhood harmony can be resolved locally through a panel of neutral mediators. This grassroots approach empowers communities to settle conflicts collaboratively without escalating to the formal justice system. It promotes social cohesion and encourages citizens to rely on local, familiar forums to resolve interpersonal or localized issues amicably.

Furthermore, the Mediation Act works in tandem with existing provisions such as Section 89 of the Code of Civil Procedure, 1908. Section 89 authorizes courts to refer cases to alternative dispute resolution forums, including mediation.¹¹ This dual legal mechanism ensures that the Mediation Act does not operate in a vacuum but complements the existing procedural framework, reinforcing the judiciary's ability to promote peaceful settlements through a recognized legal pathway.

In sum, the Mediation Act, 2023, represents a watershed moment in the evolution of India's legal landscape. It moves beyond the conventional courtroom-centric model and embraces a more collaborative, cost-effective, and timely approach to justice. By institutionalizing mediation, ensuring the enforceability of its outcomes, and supporting innovation through online and community mechanisms, the Act lays the foundation for a more resilient and people-friendly justice system. As this framework takes root, it has the potential not only to reduce case backlogs but also to transform the broader legal culture in India—fostering a society that values resolution through dialogue over adversarial confrontation.

EFFECTIVENESS OF MEDIATION ACT

Mediation has emerged as a transformative tool in India's legal landscape, particularly in the context of civil justice where delays and backlogs have long plagued the system. As of December 2024,

¹¹ S. 89, Code of Civil Procedure, 1908.

over 51 million cases remain pending across various courts in the country, including the Supreme Court, High Courts, District, and Subordinate Courts.¹² This overwhelming pendency not only hampers the efficiency of the judiciary but also undermines public faith in the ability of courts to deliver timely justice. In this environment, mediation has surfaced as a reliable, cost-effective, and efficient mechanism for dispute resolution. Its adaptability and informal nature have made it especially appealing in a society where court processes are often seen as intimidating, expensive, and time-consuming.

Studies have consistently shown that mediation centers in India achieve settlement rates ranging between 62% and 80%, underscoring the effectiveness of this mechanism in facilitating mutually agreeable resolutions.¹³ One of the most compelling aspects of mediation is its affordability. The cost of mediation is estimated to be only 10% to 20% of what traditional litigation would cost a party. This cost-efficiency, paired with a more collaborative and less adversarial approach, makes mediation an attractive option for individuals and businesses alike. Between April 2022 and June 2023 alone, over 110,000 cases were successfully resolved through mediation, indicating not only increased acceptance but also a tangible impact on reducing court backlogs.

The Mediation Act, 2023, institutionalized this dispute resolution mechanism by mandating pre-litigation mediation in civil and commercial disputes. This development marked a decisive shift from mediation being a voluntary option to becoming a necessary step before formal litigation.¹⁴ The Act also established the Mediation Council of India, tasked with standardizing mediation practices, accrediting mediators, and spreading awareness about mediation as an effective and enforceable resolution mechanism. It further ensured that mediated settlement agreements carry the weight of enforceability, thereby granting legal sanctity to outcomes reached through this process. These provisions, along with supportive sections like Section 89 of the Code of Civil Procedure, 1908, which encourages courts to refer matters for alternative dispute resolution, have collectively laid the groundwork for mediation to be an integral part of India's civil

¹² "Open Government Data (OGD) Platform India," 2022 available at: <https://data.gov.in> (last visited May 8, 2025).

¹³ CAMELIA BENAMARA, "The Evolving Role of International Mediators in Complex Peace Processes: A Multidimensional Analysis of Strategies, Challenges, and Outcomes in the 21st Century" (2025).

¹⁴ Banshidhar Baug, "Assessing the Future of Mediation: The Impact of the Mediation Act, 2023 on Dispute Resolution in India," 7 Issue 5 *International Journal of Law Management & Humanities* 905 (2024).

justice ecosystem.

The effectiveness of mediation is also reflected in user satisfaction rates. Surveys conducted by legal think tanks and NGOs reveal that parties who engage in mediation report higher satisfaction with the dispute resolution process compared to those who undergo traditional court proceedings.¹⁵ The reasons for this are manifold—greater control over the outcome, privacy of the process, reduced animosity between parties, and faster resolution times. These qualitative advantages, when combined with quantitative impact like reduced case pendency and financial savings, make a strong case for the continued and expanded use of mediation in India.

Despite these advantages, challenges remain in mainstreaming mediation across all socio-economic strata. One of the primary issues is lack of awareness. A large segment of the population is either unaware of mediation as a viable option or distrusts it due to unfamiliarity. There is also a need for extensive training and capacity building among mediators to ensure quality and consistency in the mediation process.¹⁶ While urban India has begun to embrace online mediation platforms, rural and semi-urban areas still struggle with access to digital infrastructure, which can limit the reach and impact of online mediation. Another critical challenge lies in institutional acceptance. While the judiciary is increasingly open to alternative dispute resolution, there are still gaps in implementation and referral practices that need to be addressed.¹⁷

The future of mediation in India looks promising. The combination of legislative support through the Mediation Act, 2023, the rise of efficient and scalable ODR platforms, and increasing public acceptance of non-litigious conflict resolution are strong indicators of a paradigm shift in how civil disputes are addressed in the country. The integration of technology, public-private partnerships, and awareness campaigns led by the Mediation Council of India can further accelerate this transformation. As the judiciary continues to grapple with pendency and delays, mediation stands out not just as an alternative, but as a necessary complement to India's traditional justice system,

¹⁵ Oksana Melenko, "Mediation as an Alternative Form of Dispute Resolution: Comparative-Legal Analysis," 7 *European Journal of Law and Public Administration* 46–63 (2020).

¹⁶ Stephanie A. Henning, "A Framework for Developing Mediator Certification Programs," 4 *Harvard Negotiation Law Review* 189 (1999).

¹⁷ Pablo Cortés, "Embedding alternative dispute resolution in the civil justice system: a taxonomy for ADR referrals and a digital pathway to increase the uptake of ADR," 43 *Legal Studies* 312–30 (2023).

promising quicker, fairer, and more inclusive access to justice.

POLICY RECOMMENDATIONS AND INTERVENTIONS

To enhance the effectiveness of mandatory mediation within India's civil justice system, several strategic policy interventions and institutional reforms are imperative. As of 2023, India faces a judicial backlog exceeding 70 million cases, with over 4.5 crore pending in district courts alone. Studies reveal that over 60% of these cases are civil disputes, many of which could be resolved through mediation, thereby reducing the burden on courts.

A critical first step is launching nationwide public awareness campaigns to educate citizens on the benefits of mediation. Currently, less than 20% of litigants are aware of mediation as an option, and awareness is even lower in rural areas (below 10%). Well-structured campaigns across television, radio, social media, and local governance channels can increase participation rates by 30-40% in the next five years.

Equally crucial is the development of standardized training and accreditation programs for mediators. Presently, India has fewer than 10,000 trained mediators for a population of 1.4 billion, reflecting a mediator-to-population ratio of 1:140,000, far below global benchmarks like Singapore (1:3,000). A national accreditation framework, coupled with annual capacity-building initiatives, can increase this pool by 25-30% annually, aiming for at least 50,000 qualified mediators by 2030.

Integrating ADR, especially mediation, into law school curricula and continuing legal education (CLE) programs is another vital measure. Currently, less than 15% of law schools offer structured mediation courses. Mandating ADR modules across all 1,500+ law colleges in India could ensure that over 75,000 law graduates annually are equipped with non-adversarial dispute resolution skills.

Investment in mediation infrastructure is crucial, particularly in rural and underserved regions where over 65% of India's population resides. Establishing one mediation center per district (totaling approximately 780 centers) would ensure greater accessibility. Additionally, expanding online mediation platforms can increase reach by 50%, especially in Tier 2 and Tier 3 cities, reducing travel and cost barriers.

To maintain quality and ensure accountability, robust monitoring and evaluation systems must be implemented. Real-time data dashboards, tracking settlement rates, timelines, and satisfaction indices, should be mandated. For instance, Lok Adalats report

settlement rates of 65-70%, while court-referred mediation cases show success rates between 40-50%. A structured evaluation system can help improve these figures by 10-15% over five years.

Mandatory mediation, now backed by the Mediation Act, 2023, offers a transformative opportunity. However, its success hinges on continuous awareness drives, standardized mediator training, infrastructure development, and evidence-based policy adjustments. If these interventions are systematically implemented, India could witness a reduction of judicial backlog by 20-25% in a decade, paving the way for a more accessible, efficient, and humane civil justice system.