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Reimagining Dispute Resolution: Evaluating The Mediation Act, 2023 In Promoting Access To Justice

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Abstract: The Mediation Act, 2023 (“the Act”) represents a landmark step in India’s legal reform agenda, aiming to institutionalize mediation as a credible and enforceable mode of alternative dispute resolution (ADR). It consolidates the fragmented legal framework on mediation, ensures the enforceability of Mediated Settlement Agreements (MSAs), and establishes the Mediation Council of India (MCI) as a regulatory and developmental authority. Globally, mediation is recognized for being cost-effective, confidential, and time-efficient. In India, however, mediation had remained underutilized due to the absence of statutory backing, limited public awareness, and deep-rooted cultural hierarchies that favor adjudicatory authority. By introducing a comprehensive framework, the Act enhances access to justice, reduces court pendency, and aligns India with international ADR trends. Yet, challenges persist; notably, the exclusion of provisions relating to the Singapore Convention on Mediation, unresolved questions regarding confidentiality exceptions, and limited clarity on mediator conduct and training. The Act’s success ultimately depends on its ability to integrate legal, cultural, and institutional dimensions, thereby creating a robust ecosystem that balances party autonomy with the need for regulatory oversight.

Index Terms - Mediation Act 2023; Alternative Dispute Resolution (ADR); Access to Justice; Mediation Council of India (MCI); Mediated Settlement Agreement (MSA); Court Pendency; Evaluative-Facilitative Hybrid Model; Legal Framework of Mediation in India; Cultural Context of Mediation; Singapore Convention on Mediation; Institutional Mediation; Conflict Resolution; Legal Reform; Party Autonomy; Confidentiality in Mediation; International Commercial Mediation; Dispute Resolution Mechanisms; Legal Literacy; Pre-litigation Mediation; Judicial Backlog; UNCITRAL Model Law; Comparative Legal Study; Legal Empowerment; Restorative Justice; Voluntariness; Enforcement of Settlements; Mediation Infrastructure; Indian Legal System.

I. INTRODUCTION

Mediation is a voluntary, confidential, and structured negotiation process facilitated by a neutral third party, the mediator; who assists disputing parties in reaching an amicable settlement. Unlike arbitration or litigation, mediation does not impose a decision but empowers parties to collaboratively resolve their disputes.

Historically, India’s cultural and social fabric has always been conducive to consensual dispute resolution. Traditional mechanisms such as the *Panchayati Raj* system, *Nyaya Panchayats*, and community elders have long served as mediators, emphasizing reconciliation and harmony over adversarial outcomes. However, with modernization, urbanization, and the explosion of commercial and civil disputes, the limitations of informal systems became apparent.

The formal legal system, plagued by a staggering backlog of nearly **4.75 crore pending cases**, long delays, and prohibitive costs, has necessitated the search for alternative solutions. Recognizing these challenges, the judiciary and policymakers have actively promoted mediation as an instrument for restoring access to justice. Judicial pronouncements in *Salem Advocate Bar Association v. Union of India* (2005) and *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.* (2010) directed the institutionalization of mediation under Section 89 of the Code of Civil Procedure (CPC), 1908.

The **Mediation Act, 2023**, enacted in September 2023, fulfils the long-pending demand for a unified statute governing mediation. It seeks to consolidate existing frameworks, clarify the distinction (and overlap) between mediation and conciliation, and establish enforceability of MSAs. The Act's ultimate test lies in whether it enhances access to justice, ensures enforceability, protects party autonomy, and fosters a sustainable mediation culture.

II. OBJECTIVES

1. To evaluate the Mediation Act, 2023 in institutionalizing mediation and making it an effective complement to India's judicial system.
2. To examine whether the Act successfully addresses key barriers to justice such as high cost, delay, and procedural rigidity in litigation.
3. To analyze the Act's conceptual and structural innovations — such as enforceability of MSAs, establishment of the MCI, and standardization of mediator training.
4. To explore the socio-cultural challenges affecting mediation's implementation in India, including low awareness and hierarchical mindsets.
5. To propose recommendations for enhancing the Act's functionality, including harmonization with international frameworks like the Singapore Convention.

III. HYPOTHESIS

Primary Hypothesis:

“The Mediation Act, 2023 significantly strengthens access to justice by institutionalizing mediation and promoting alternative dispute resolution mechanisms in India.”

Secondary Hypotheses:

- Mediation under the Act will reduce court pendency.
- The success of the Act depends on awareness, training, and institutional infrastructure.

IV. RESEARCH METHODOLOGY

The study employs a qualitative legal analysis of statutory provisions, case law, and policy documents related to the Mediation Act, 2023. It also adopts a comparative methodology by examining international frameworks such as the Singapore Mediation Act, 2017, the Singapore Convention on Mediation (2019), and UNCITRAL Model Law on International Commercial Mediation (2018).

Additionally, theoretical frameworks from conflict resolution studies, such as Galtung's Conflict Triangle and Moore's Circle of Conflict, are applied to contextualize the suitability of mediation models in India's social fabric. The study also integrates empirical observations and judicial trends, particularly the increasing judicial reliance on mediation for resolving long-pending disputes.

V. THEORETICAL FRAMEWORK

Globally, mediation is recognized as one of the most effective methods of alternative dispute resolution (ADR). It is based on four fundamental principles, that is **voluntariness, neutrality, confidentiality, and party autonomy**. These principles collectively form the ethical and procedural foundation of mediation across jurisdictions.

Voluntariness ensures that parties enter and continue the mediation process by their own free will. They are not compelled by law or by the mediator to participate or to reach an agreement. This principle empowers the disputing parties to take ownership of their conflict and to withdraw at any stage if they find the process unsuitable. Then, the **neutrality** refers to the mediator's obligation to remain impartial and independent throughout the proceedings. The mediator does not favor any party, issue, or outcome. Neutrality builds trust between the parties, as it reassures them that the mediator's role is to facilitate dialogue, not to determine guilt or fairness. **Confidentiality** ensures that all communications, documents, and discussions during mediation remain private. Information disclosed cannot be used as evidence in subsequent litigation or arbitration unless both party's consent. This confidentiality encourages openness and honesty in discussions, enabling parties to explore possible settlements without fear of legal repercussions. Finally, **party autonomy** is the cornerstone of mediation. It means that the decision-making power lies entirely with the parties. The mediator only assists in communication and negotiation but does not impose any solution. This respect for autonomy promotes genuine consensus and voluntary compliance with the final settlement.

Internationally, the **facilitative model** is considered the standard framework for mediation. In this approach, the mediator's role is primarily that of a facilitator or enabler. The mediator assists the parties in identifying their underlying interests, clarifying misunderstandings, and generating mutually acceptable options. The mediator does not evaluate the merits of the case or suggest solutions. Instead, the focus is on improving communication and empowering parties to find their own resolution. This model operates on the belief that people are capable of resolving their disputes once they have the right environment for dialogue. It emphasizes collaboration, empathy, and active listening. The mediator asks open-ended questions, reframes issues, and helps parties move from rigid positions to underlying interests. Facilitative mediation is widely practiced in countries like the United States, the United Kingdom, and Australia, where participants often have similar social and cultural power dynamics. However, when this model is applied in societies with hierarchical or collectivist cultures, like India; it faces several structural and cultural challenges.

India's social and cultural realities differ significantly from those of Western countries where facilitative mediation evolved. Indian society is deeply **hierarchical**, with respect for authority and seniority being embedded in interpersonal relations. People often rely on elders, community leaders, or officials to "decide" or "guide" them toward justice. In such contexts, parties entering mediation frequently **expect the mediator to play a directive or advisory role** rather than merely facilitating communication. Many participants come from backgrounds where negotiation is not common practice, and assertiveness or open disagreement may be culturally discouraged. As a result, the purely facilitative model can be perceived as **weak, indecisive, or ineffective**. Furthermore, mediators in India are often retired judges, senior advocates, or community elders. Their reputation and social authority naturally influence parties' expectations that they will "suggest" or "recommend" fair outcomes. Consequently, if mediators strictly adhere to the facilitative model and refrain from expressing any evaluative views, parties might feel dissatisfied or uncertain about the direction of the mediation. Another challenge is that Indian disputes, especially family, property, and business-related cases; often involve strong emotional, relational, and moral dimensions. Parties look for moral guidance or validation of justice, not just procedural fairness. Thus, an overly facilitative approach that limits the mediator's voice may fail to address these deeper expectations. To address these cultural and practical challenges, scholars and practitioners have developed what is known as the **Evaluative-Facilitative Hybrid Model**, adapted to Indian conditions. In this model, the mediator remains fundamentally neutral and non-imposition but adopts a more **proactive and guiding role**.

The hybrid model allows mediators to **offer evaluative feedback, suggest options, and assess the strengths and weaknesses of positions**, without compromising voluntariness or confidentiality. The mediator may draw upon legal experience, practical wisdom, and ethical judgment to help parties understand the implications of their choices. Importantly, such evaluations are offered as guidance, not as binding decisions. Empirical observations from Indian mediation centers, including those attached to **High Courts and Lok Adalats**, show that this hybrid approach leads to **higher settlement rates**, especially in family disputes, motor accident compensation claims, and cheque-bounce cases under Section 138 of the Negotiable Instruments Act. Parties often express greater satisfaction with mediators who balance facilitation with mild evaluation. This model, therefore, represents a culturally sensitive evolution of global mediation practices, blending traditional notions of authoritative guidance with the modern ideals of dialogue and consensus.

To enhance the quality of mediation, various **conflict analysis frameworks** can be employed. Two significant tools are **Galtung's Conflict Triangle** and **Moore's Circle of Conflict**, which help mediators analyze the deeper layers of disputes.

Galtung's Conflict Triangle identifies three interrelated components of any conflict: **Contradiction**, the underlying incompatibility of goals or interests between parties. **Attitude**, the perceptions, emotions, and miscommunications that shape how parties view each other. **Behavior**, the visible actions, such as arguments or litigation, that emerge from contradictions and attitudes. The effective mediation addresses all three components—clarifying contradictions (substantive issues), transforming attitudes (emotions and perceptions), and moderating behavior (communication patterns).

Moore's Circle of Conflict provides another diagnostic tool. It classifies conflicts into five types:

- **Data conflicts** (arising from misinformation or differing interpretations of facts),
- **Relationship conflicts** (stemming from mistrust, anger, or poor communication),
- **Value conflicts** (based on differing moral or cultural beliefs),
- **Interest conflicts** (over needs or desires), and
- **Structural conflicts** (caused by unequal power, authority, or resources).

By identifying which of these dimensions dominate a dispute, a mediator can tailor interventions, whether through information sharing, trust building, or structural adjustment, to promote resolution.

Mediation represents a **collaborative conflict style**, emphasizing cooperation over competition. The goal is to achieve **"win-win" outcomes**, where both parties feel their key interests are acknowledged and satisfied. This approach contrasts with adversarial litigation, where one party's win usually means the other's loss. Moreover, mediation helps reduce **emotional and cognitive biases** that often distort judgment during disputes. Emotions like anger, resentment, or humiliation can escalate conflicts, while cognitive biases such as **confirmation bias** (focusing only on information that supports one's view) and the **sunk cost fallacy** (continuing a dispute because of past investments) can prevent rational decision-making. The mediator's presence and techniques, such as reframing, summarizing, and future-focused questioning—help parties overcome these barriers.

VI. LEGAL FRAMEWORK

The **Mediation Act, 2023** is India's first comprehensive legislation dedicated solely to mediation. It seeks to institutionalize mediation as a preferred mechanism for resolving civil and commercial disputes. The Act defines the term **"mediation"** under **Section 3(h)** as a process where parties attempt to resolve disputes amicably with the assistance of a neutral third party (mediator) and explicitly includes **conciliation** within its scope. This broad definition ensures continuity with the provisions of the Arbitration and Conciliation Act, 1996, while extending the applicability of mediation to a wider range of contexts.

A notable innovation introduced by the Act is the concept of **mandatory pre-litigation mediation** for certain categories of civil and commercial disputes. This means that before filing a case in court, parties must first attempt to settle their differences through mediation. This provision aims to reduce the burden on courts, promote early resolution, and foster a culture of dialogue and collaboration. The process is intended to be efficient and time-bound, with the Act prescribing a **120-day timeframe** for completion of mediation, which may be extended by a further **60 days** with the consent of the parties. This ensures that mediation does not become an indefinite process and aligns with the principle of timely justice. An important procedural safeguard incorporated in the Act is the **exclusion of mediation time from the computation of limitation periods**. This means that the duration spent in mediation will not count toward the limitation period under the Limitation Act, 1963. This provision prevents parties from being penalized for engaging in mediation and encourages them to explore settlement options without the fear of limitation expiry. The **confidentiality clause** is another cornerstone of the Mediation Act. All communications, documents, and statements made during mediation are deemed confidential, and mediators are bound not to disclose any information shared with them during the process. However, the Act provides limited exceptions; such as when disclosure is necessary to prevent the commission of a crime, to ensure public safety, or when required by a court order. This balance ensures both transparency and privacy within the mediation framework. Further, the Act establishes the **Mediation Council of India (MCI)** as a regulatory body responsible for promoting, supervising, and maintaining professional

standards in mediation. The Council is empowered to recognize mediation service providers, register mediators, and lay down ethical and procedural guidelines to ensure uniformity and accountability across the country. This institutionalization reflects India's intent to develop a robust and credible mediation ecosystem comparable to international standards. Perhaps the most significant feature of the Act is the **enforceability of Mediated Settlement Agreements (MSAs) under Section 27**. The Act provides that an MSA resulting from a duly conducted mediation shall have the **same status and effect as a court decree**. This makes mediated outcomes legally binding and directly enforceable, eliminating the need for separate suits or enforcement proceedings. This provision greatly enhances the credibility and attractiveness of mediation as a dispute resolution mechanism.

Before the enactment of the Mediation Act, the primary statutory basis for mediation in India was **Section 89 of the Code of Civil Procedure, 1908 (CPC)**. Introduced through the **Amendment Act of 1999**, Section 89 empowered courts to refer disputes for settlement through alternative methods, including arbitration, conciliation, judicial settlement, Lok Adalats, and mediation. The provision was designed to encourage courts to explore settlement options before resorting to full trials. The language of Section 89 reflects judicial recognition of mediation as a tool to relieve case backlogs and promote participatory justice. Courts across India have actively invoked this section to refer appropriate disputes to mediation centers attached to High Courts and District Courts. The continued operation of Section 89 ensures that even after the Mediation Act, courts retain the power to direct parties toward mediation when the circumstances so require.

The **Arbitration and Conciliation Act, 1996**, particularly **Part III (Sections 61–81)**, laid the initial foundation for conciliation, which is conceptually similar to mediation. The Act detailed procedures for appointment of conciliators, the conduct of conciliation proceedings, and the binding effect of settlement agreements. However, with the enactment of the **Mediation Act, 2023**, many of these provisions have been effectively **subsumed** within the newer legislation. While the Conciliation Act provisions remain technically in force, the new law provides a more comprehensive framework encompassing not only conciliation but also community mediation, online mediation, and institutionalized mediation processes. This harmonization minimizes procedural overlaps and creates a unified legal regime for all mediation-related activities in India.

Non-Mediatable Matters: Not all disputes are suitable for mediation. The **Mediation Act, 2023**, under **Section 6 and the First Schedule**, explicitly lists categories of matters that are **non-mediatable**. These include disputes relating to **rights in rem** (as opposed to rights in personam), **criminal offenses** other than compoundable ones, disputes involving **third-party rights**, and matters concerning **minors, persons of unsound mind, or deities**. This classification is consistent with judicial reasoning laid down in **Vidya Drolia v. Durga Trading Corporation (2020)**, where the Supreme Court clarified that matters involving rights in rem or requiring public adjudication are generally non-arbitrable and, by analogy, non-mediatable. The exclusion of such cases ensures that mediation is confined to disputes that are private, consensual, and capable of settlement without affecting third-party or public interests.

Judicial Developments and Interpretations: Judicial support has been crucial in shaping the growth of mediation in India. A landmark decision came in **Salem Advocate Bar Association v. Union of India (2005)**, where the Supreme Court upheld the constitutional validity of **Section 89 of the CPC** and directed the government to frame appropriate rules for mediation and conciliation. The judgment recognized mediation as a legitimate, constitutionally permissible alternative to litigation and emphasized its role in achieving speedy justice under Article 21 of the Constitution.

Further clarity was provided in **Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010)**. The Supreme Court elaborated on the procedural aspects of Section 89, distinguishing between different ADR mechanisms and outlining categories of cases suitable for mediation. The Court noted that mediation is particularly effective for disputes involving ongoing relationships, such as family, partnership, and employment matters, where preservation of relationships is desirable. This judgment standardized mediation referrals across Indian courts and contributed to greater consistency in its practice.

Most recently, in **M/s Caravan Commercial Company Ltd. v. Yashashwi Aggarwal & Others (2025)**, the Supreme Court reaffirmed the legal sanctity of mediated settlements. The Court upheld the enforceability of a Mediated Settlement Agreement under **Article 142 of the Constitution**, underscoring the judiciary's commitment to promoting mediation as a credible and enforceable dispute resolution mechanism. This decision marks an important judicial endorsement of the Mediation Act's principles and reinforces the shift toward consensual resolution of disputes.

VII. COMPARATIVE STUDY WITH OTHER JURISDICTIONS

(1) Singapore

Singapore is often regarded as a **global leader in mediation reform**, and its **Mediation Act, 2017** serves as a model for many jurisdictions seeking to integrate mediation within their judicial systems. The Act provides a **progressive and comprehensive legal framework** that formalizes mediation practice while preserving its voluntary and confidential character. One of the most notable features of Singapore's model is that **mediated settlement agreements (MSAs)** can be **directly enforced through the courts**, giving them the same legal effect as arbitral awards or court judgments. This feature ensures that the outcomes of mediation carry both moral and legal weight, thereby enhancing party confidence in the process.

Another key provision of the Singapore Mediation Act is the **grant of stay of court proceedings** when a valid mediation agreement exists between the parties. This means that if parties have agreed to resolve disputes through mediation, the court may stay litigation proceedings until mediation has been attempted or concluded. This mechanism prevents premature resort to litigation and reinforces the contractual sanctity of mediation clauses. The absence of such a provision in India's Mediation Act, 2023, represents a missed opportunity, as it could have strengthened the enforceability of mediation agreements and reduced unnecessary judicial intervention.

Singapore's mediation ecosystem extends beyond its legislative framework to include a **highly developed institutional infrastructure**. The **Singapore International Mediation Centre (SIMC)**, established in 2014, plays a pivotal role in promoting both domestic and international commercial mediation. SIMC operates in coordination with the **Singapore International Arbitration Centre (SIAC)** and the **Singapore International Commercial Court (SICC)**, offering a seamless transition between mediation, arbitration, and litigation. This **"multi-door courthouse model"** provides parties with a continuum of dispute resolution options, ensuring flexibility and efficiency.

The success of Singapore's model can be attributed to its **strong governmental support, capacity-building initiatives, and consistent judicial encouragement**. The judiciary, through the Supreme Court and subordinate courts, routinely endorses mediation as a first step in dispute resolution. Moreover, Singapore's strategic emphasis on training, accreditation, and continuous education of mediators ensures professional excellence and ethical integrity. As a result, Singapore has earned international recognition as a **global hub for mediation**, with the SIMC handling a growing number of cross-border commercial disputes. India, in comparison, can learn from Singapore's approach to institutional integration, particularly in linking mediation with existing court and arbitration mechanisms.

(2) United Kingdom

In the **United Kingdom**, mediation has been gradually mainstreamed into the civil justice system through judicial policy rather than comprehensive legislation. The principal framework governing mediation arises from the **Civil Procedure Rules (CPR)**, specifically **Parts 31 and 32**, which empower courts to encourage or direct parties to attempt mediation before proceeding to a full trial. This approach aligns with the overriding objective of the CPR — to deal with cases justly and efficiently by saving time, cost, and judicial resources.

Unlike India, where **pre-litigation mediation** has been made partly mandatory under the Mediation Act, 2023, the UK system relies primarily on **judicial discretion and persuasive incentives** rather than compulsion. Courts in England and Wales frequently issue directions for parties to explore settlement through mediation, and **failure to do so without reasonable justification can lead to cost sanctions**. This means that even though mediation is technically voluntary, parties who unreasonably refuse to mediate may be penalized by

having to bear the costs of litigation. The **Halsey v. Milton Keynes General NHS Trust (2004)** decision by the Court of Appeal is a landmark in this context, holding that while courts cannot compel parties to mediate, unreasonable refusal can have adverse cost consequences.

This model effectively balances party autonomy with judicial encouragement, fostering a **culture of cooperation rather than coercion**. Mediation in the UK is widely used in civil and commercial disputes, as well as in family and employment matters. Moreover, specialized institutions such as the **Centre for Effective Dispute Resolution (CEDR)** and the **Civil Mediation Council (CMC)** play important roles in promoting standards, accreditation, and public awareness. These institutions also provide structured training and certification programs, ensuring that mediators maintain high levels of professionalism.

The UK experience demonstrates that a **policy-driven, court-assisted mediation system** can achieve widespread acceptance without rigid statutory mandates. The emphasis on proportionality, judicial case management, and economic efficiency aligns closely with the goals of India's Mediation Act, yet the UK's reliance on cost-based deterrence rather than statutory compulsion presents an interesting contrast in regulatory philosophy.

(3) United States

The **United States** has a long and diverse history of mediation practice, with significant variations across states and federal jurisdictions. Mediation is deeply integrated into the **court-annexed alternative dispute resolution (ADR) framework**, particularly in family law, community disputes, labor relations, and commercial conflicts. Rather than being governed by a single national statute, mediation in the U.S. operates under **state-level regulations and judicial programs**, allowing flexibility and adaptation to local needs.

In most jurisdictions, courts maintain dedicated **mediation panels or programs**, where trained and certified mediators facilitate settlement discussions under judicial supervision. Judges often refer suitable cases to mediation during pre-trial conferences, and many family and civil courts require mandatory mediation in specific types of disputes, such as child custody or small claims. Importantly, **judges themselves may act as settlement facilitators**, provided they maintain neutrality and ensure that no coercion is applied. This practice reflects a pragmatic understanding of judicial mediation, which balances efficiency with fairness.

Mediators in the United States are typically **certified at the state level**, with requirements varying across jurisdictions. For example, some states mandate training hours, continuing education, and ethical codes. This decentralized yet **regulated framework** ensures that mediation remains accessible, professional, and responsive to community needs. Furthermore, leading institutions such as the **American Arbitration Association (AAA)**, the **Federal Mediation and Conciliation Service (FMCS)**, and numerous university-based centers have contributed to advancing mediation research, training, and policy innovation.

India's **Mediation Council of India (MCI)**, established under the 2023 Act, may benefit from studying the **U.S. model of decentralized governance**. By delegating certification and regulatory powers to regional bodies or institutions, India can expand mediator training capacity, enhance specialization, and build local-level trust in the process.

(4) Singapore Convention on Mediation (2019)

The **United Nations Convention on International Settlement Agreements Resulting from Mediation (2019)**, commonly known as the **Singapore Convention on Mediation**, represents a landmark in the globalization of mediation. The Convention establishes a uniform framework for the **recognition and enforcement of international mediated settlement agreements (MSAs)**, similar to how the **New York Convention (1958)** operates for arbitral awards. It enables parties to directly enforce cross-border MSAs in signatory states without initiating fresh proceedings.

India signed the Singapore Convention in 2019, signaling its commitment to advancing international mediation. However, the **Mediation Act, 2023**, while comprehensive in domestic terms, **does not provide a mechanism for enforcing international MSAs under the Convention**. This omission is a significant limitation, as it restricts India's ability to position itself as a global hub for cross-border dispute resolution.

Without explicit statutory recognition of the Convention, mediated settlements involving foreign parties cannot be directly enforced in India, thereby undermining the confidence of international investors and businesses.

In contrast, **Singapore, Hong Kong, and several European countries** have already aligned their domestic laws with the Convention, enhancing their global competitiveness in the dispute resolution market. For India to fully realize its potential as an international mediation center, legislative or regulatory amendments will be necessary to integrate the provisions of the Singapore Convention into national law. Doing so would not only facilitate cross-border commerce but also reinforce India's image as a pro-reform jurisdiction committed to efficient and cooperative justice delivery.

VIII. DATA ANALYSIS

In the Mediation Act, 2023 significantly strengthens access to justice in India by institutionalizing mediation, ensuring enforceability of settlements, and promoting a culture of consensual dispute resolution.

The Act marks a paradigm shift by rendering **Mediated Settlement Agreements (MSAs)** enforceable as decrees of civil courts under **Section 27**. This single provision addresses one of the most significant prior limitations of mediation — the lack of binding effect. Furthermore, by establishing the **Mediation Council of India (MCI)**, the Act introduces a central regulatory body responsible for setting standards for mediator accreditation, training, and ethical conduct.

1. **Reduction of Court Pendency:** Mediation can substantially reduce the caseload burden on courts. With over 4.75 crore cases pending, mediation offers an efficient alternative for quick, cost-effective settlements.
2. **Institutional and Cultural Support:** The success of the Act depends on the effective functioning of the MCI, awareness campaigns, and cultural adaptation. Many litigants in India still associate dispute resolution with authoritative decision-making. Hence, mediator training must be culturally contextualized.
3. **Sustainability Through Ecosystem Building:** The MCI's responsibility to recognize Mediation Service Providers (MSPs) and Mediation Institutes will determine the success of the ecosystem. Legal literacy, trust-building, and standardization are essential to ensure that mediation becomes a credible first choice rather than an afterthought.

The Indian ADR market is projected to reach **₹16,000 crores by 2030**, with mediation accounting for nearly **₹8,000 crores**. Judicial statistics reveal over **4.75 crore pending cases**, underscoring the urgency for effective ADR systems. Empirical evidence from mediation centers in Delhi, Bangalore, and Mumbai suggests that **mediators using evaluative techniques** achieve higher success rates compared to purely facilitative ones, especially in culturally sensitive disputes.

The Act's potential impact extends beyond dispute resolution, it promotes **restorative justice**, enhances **ease of doing business**, and contributes to **judicial efficiency**. However, lack of awareness, training deficits, and absence of uniform accreditation standards remain key challenges.

IX. CHALLENGES AND RECOMMENDATIONS

One of the most significant challenges to mediation in India is the cultural mismatch between the facilitative mediation model and India's deeply hierarchical social structure. Traditional Indian dispute resolution has historically relied on authority figures—elders, community leaders, or panchayat heads—who provide directive guidance rather than facilitating mutual understanding. The facilitative model, which emphasizes party autonomy and non-directive negotiation, often conflicts with this mindset. Many participants in mediation expect mediators to "decide" rather than "guide," which can create confusion and reduce confidence in the process. Consequently, mediators in India frequently face the dual burden of maintaining neutrality while managing parties' expectations for authoritative input, often blurring the lines between mediation and conciliation.

While India was among the early signatories to the Singapore Convention on Mediation, it has yet to ratify the treaty. This omission creates a serious barrier to enforcing mediated settlement agreements (MSAs) in cross-border disputes. Without an international enforcement mechanism, foreign investors and multinational corporations may hesitate to choose India as a venue for mediation. In contrast, countries like Singapore and the United Arab Emirates, which have adopted the Convention, enjoy a clear advantage in attracting international commercial disputes. The absence of cross-border enforceability undermines India's aspirations to emerge as a global dispute resolution hub under its "Ease of Doing Business" and "Viksit Bharat 2047" initiatives.

Although Section 27 of the Mediation Act, 2023 equates domestic mediated settlements with court decrees, enforcement remains limited in scope. There is currently no explicit legal remedy for the breach of a mediation agreement—that is, the agreement to mediate before litigation begins. Similarly, the Act does not provide for interim relief during ongoing mediation proceedings, except in court-referred cases under Section 7. This gap may discourage parties from choosing pre-litigation mediation, particularly in high-stakes commercial or intellectual property disputes where interim protection is crucial.

Confidentiality is a cornerstone of mediation; it encourages openness, trust, and candid dialogue between parties. However, Section 22 of the Mediation Act, 2023 includes broad exceptions for threats to national security, public order, and criminal activities. While these safeguards are important, their vague and expansive phrasing can create uncertainty. Mediators may over-disclose information to avoid liability, while parties, especially in family or matrimonial mediations—might withhold sensitive information for fear of disclosure. This tension undermines the psychological safety required for effective mediation.

The Mediation Council of India (MCI), established under Chapter IX of the Act, plays a critical role in accrediting mediators, recognizing institutions, and setting professional standards. However, the Council's structure has raised concerns about excessive government control. A majority of the MCI's members, including the Chairperson, are appointed by the central government, potentially compromising institutional autonomy. This composition risks politicization and may limit the development of an independent, self-regulating professional body similar to the Bar Council or the Arbitration Council of India. Without credible autonomy, the MCI's ability to foster public confidence and professional ethics could be significantly weakened.

Recommendations

1. **Adopt Hybrid Mediation Model:** Formalize an evaluative-facilitative hybrid approach, supported by context-specific mediator training.
2. **Ratify the Singapore Convention:** Integrate international enforceability mechanisms for MSAs.
3. **Enhance Legal Remedies:** Allow courts to grant interim relief for all mediations, not only those referred under Section 7.
4. **Refine Confidentiality Provisions:** Create a balanced framework ensuring candor without compromising safety.
5. **Strengthen Institutional Autonomy:** Ensure that the MCI includes representatives from diverse professional backgrounds, limiting executive control.
6. **Capacity Building and Awareness:** Conduct national-level legal literacy programs, emphasizing mediation's benefits in access to justice.

X. CONCLUSION

The **Mediation Act, 2023** marks a transformative moment in India's justice delivery system. By providing a coherent legal framework, it institutionalizes mediation as an accessible, enforceable, and culturally adaptive mechanism of dispute resolution. The Act's strengths lie in its enforceability provisions, establishment of the MCI, and conceptual consolidation of mediation and conciliation.

However, its limitations, especially the non-ratification of the Singapore Convention, cultural misalignment with the facilitative model, and institutional dependency, highlight the need for continuous evolution. India's path forward must blend legal innovation with cultural realism, embracing a **hybrid mediation model** that aligns global standards with Indian social contexts.

Ultimately, the Mediation Act has the potential to democratize justice, reduce litigation burdens, and foster a participatory culture of dialogue and reconciliation, making justice not only accessible but also humane and transformative.

XI. REFERENCES

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