



Evaluating the role of Pre-Litigation mediation in reducing Judicial Backlog

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Abstract

Mediation has deep historical roots as a method for resolving disputes both globally and within India's community traditions, such as Panchayats. It has developed into a formal Alternative Dispute Resolution (ADR) mechanism, receiving legal recognition through legislation like the Arbitration and Conciliation Act of 1996 and, more recently, the Mediation Act of 2023, which requires pre-litigation mediation for certain civil and commercial disputes. The Indian judicial system is plagued by massive delays, with over 5 crore cases pending as of 2025, creating a systemic barrier in achieving timely justice. Pre-litigation mediation provides a voluntary, confidential, and structured approach for parties to amicably resolve their disputes before turning to the courts, emphasizing dialogue and mutual agreement. The Mediation Act 2023 further institutionalizes pre-litigation mediation as an enforceable and mandatory step for specific cases, aiming to reduce court workloads, preserve relationships, and facilitate speedy dispute resolution. This approach supports judicial reforms, enhances accessibility for marginalized groups, and aligns India's justice system with international trends towards collaborative conflict resolution. The abstract lays the groundwork for examining the effectiveness of mediation in reducing judicial backlogs by redirecting disputes away from courts, focusing on its advantages, challenges, and institutional frameworks that encourage its integration into India's legal system. This detailed framing highlights mediation as a crucial reform tool that shifts justice delivery from adversarial litigation to cooperative resolution, highlighting the importance and scope of research.

Keywords: Pre-Litigation mediation, judicial backlog, alternative dispute resolution (adr), mediation act 2023, amicable resolution

Introduction

Mediation has ancient roots, tracing its origins to traditional dispute-resolution practices in many cultures. It evolved as a formal ADR method during the 20th century, particularly in commercial and international disputes. India has a rich history of community-based, informal dispute resolution methods rooted in local customs and traditions, such as Panchayats and local councils. Formal mediation gained recognition through laws such as the Arbitration and Conciliation Act 1996, which encouraged its use in commercial disputes. The Arbitration and Conciliation (Amendment) Act further underscored the importance of ADR and suggested some guidelines to settle disputes. Recent legislative reforms like the Mediation Act, 2023, aim to formalize and refine pre-litigation mediation across India, making it a mandatory step for certain disputes and creating a legal framework for enforceability.

India's justice delivery system faces a long-lasting crisis of delay. As of 2025, over 5 crore cases are pending before Indian courts, a statistic frequently cited by the Department of Justice and the National Judicial Data Grid. Worldwide, mediation reflects a shift towards dispute resolution that prioritizes dialogue over adversarial litigation. The government's long-term response has been to encourage Alternative Dispute Resolution (ADR) Mechanisms to reduce the burden on courts. Previously, there was no single legislation framework after the introduction of the Mediation Act 2023, which fills the gaps. The Act recognised the online mediation and creation of a Mediation Council of India (MCI) to professionalise practice. The main goal is to transform mediation from a voluntary analysis into an institutionalised, enforceable, and sometimes mandatory pre-litigation process, especially for civil and commercial disputes of specified value. This

provision requires parties to attempt mediation before filing a lawsuit, except in urgent matters or disputes. If the suit is not fit for mediation, it is entitled in the Act's schedules. This mandate is designed to encourage early resolution, preserve relationships, and reduce the burden on courts.

Research Objectives

1. To analyse the statutory evolution of pre-litigation mediation in India by tracing out the details from the Code of Civil Procedure, 1908 and Commercial Courts Act, 2015, Mediation Act 2013, etc.
2. To examine the judicial interpretation of pre-litigation mediation through landmark Indian case law and understand their influence on the implementation of mediation mechanisms.
3. To evaluate the empirical impact of pre-litigation mediation on reducing pendency across civil and commercial cases, using data from NJDG, NALSA reports.
4. To evaluate how mandatory pre-litigation mediation interacts with the principle of access to justice, and whether such compulsion advances a litigant's right to timely adjudication.

Research Questions

1. How significantly does pre-litigation mediation influence the reduction of case pendency and backlog in India's courts?
2. Does mandatory or strongly encouraged pre-litigation mediation reduce the inflow of disputes into courts, and by how much?
3. What types of disputes qualify for pre-litigation mediation, and state the exemption and how it influences judicial backlog statistics?

Research Methodology

The research adopts a doctrinal research methodology, examining statutes, case laws, policy documents, and academic literature. Additionally, it analyzes empirical data sourced from mediation centres, the National Judicial Data Grid, and reports from the Mediation and Conciliation Project Committee.

Literature Review

1. Evaluating Mandatory Pre-litigation Mediation under the Commercial Courts Act in India by Harsh Mahaseth

In Commercial Courts Act, 2015, mandates pre-litigation mediation for commercial disputes above a certain monetary threshold, aiming to reduce court caseloads and promote efficient dispute resolution. The Supreme Court has played a major role in enhancing ADR mechanisms, emphasizing their importance in reducing judicial backlog and promoting access to justice. Despite the legal mandate, participation in pre-institution mediation remains low, partly due to a lack of awareness and rust in the process. There is a significant shortage of trained mediators, and the effectiveness of mediation as a viable alternative to litigation. The question is about the enforceability of mediated agreements and prevents the parties from engaging in the process. Increasing awareness about the benefits of mediation and investing in the training of mediators can enhance participation and effectiveness. Developing robust institutional frameworks and infrastructure is essential to support the mediation process and ensure its success. Mandating pre-litigation mediation in India shows considerable potential; addressing these challenges through increased institutional support and infrastructure development is crucial. The success of ADR mechanisms depends on overcoming these hurdles to unlock their full potential in the Indian legal landscape.

2. Evaluating the Efficiency of ADR in Delivering Prompt Justice by Paras Chauhan and Prof. Ajay Kumar

ADR mechanisms have gained influence in India, which aims to reduce the burden on traditional courts and provide speedy justice. Lok Adalat's mediation and other ADR mechanisms have been instrumental in resolving disputes outside the traditional court system. Studies have shown that ADR mechanisms significantly enhance judicial efficiency by reducing case disposal time and costs. The Mediation Act 2023 has been a significant development in India's dispute resolution infrastructure. The Mediation Act, 2023, has been a significant step in establishing mediation as a statutory framework. Provided comprehensive procedures for alternative dispute resolution. Need to examine the complexities of ADR mechanisms and their impact on judicial efficiency. A comparative study between traditional litigation and ADR mechanisms can provide valuable insights into efficiency and effectiveness.

3. Whether Pre-litigation Mediation in India should be Mandatory? Assessing Perspectives and Proposing a Path Forward by Lokeshwari Parvatanemi

This review examines the existing literature on the advantages and challenges of mandating pre-litigation mediation in India, with a focus on the current legal framework, attitudes towards mandatory mediation and potential pathways for implementation. Research suggests

that mandatory pre-litigation mediation can have several benefits, including reducing the burden on courts, promoting settlement, and providing parties with a faster and more cost-effective dispute resolution process. The Italian adapted out-of-model allows parties to opt out if mediation is not suitable. Adopting a similar approach can balance party autonomy with efficient dispute resolution. Careful consideration of challenges and concerns is crucial for successful implementation. Effective dispute resolution mechanisms must be prioritized. The government introduces legislation to support mediation development. Implementation requires consideration of the unique social, economic and cultural context.

4. Evaluating the Effectiveness of Court-Annexed Mediation in Reducing Judicial Backlogs by Bharat Prakash and Jyotirmoy Banerjee

This study by Bharath Prakash and Jyotirmoy Banerjee examines how court-annexed mediation services impact the alleviation of judicial backlogs in India's overwhelmed court system. The authors analyze mediation's role as an alternative dispute resolution (ADR) mechanism, focusing on its ability to provide expedited, cost-effective, and amicable settlements, thereby reducing case pendency. The authors highlight empirical data demonstrating mediation's positive impact on case disposal rates and user satisfaction. They emphasize factors like trained mediators, institutional support via Lok Adalats and mediation centres, judicial referral practices, and stakeholder awareness as critical for success. The study advocates for strengthening court-annexed mediation through policy reforms, capacity building, publicity, and integration with technological platforms to ensure wider acceptance and scalability. Collectively, the paper contributes to the broader discourse on judicial reform by underscoring court-annexed mediation's potential in mitigating judicial delays and enhancing dispute resolution efficacy in India.

5. Pre-Trial Dispute Resolution Mechanism: Evaluating Its Efficacy in Reducing Court Backlogs and Enhancing Access to Justice by Huma Sardar

The research examines that mediation offers a voluntary, confidential, and non-binding avenue for resolving disputes that significantly reduces court backlogs by diverting cases from traditional litigation. India's historical emphasis on conciliatory justice aligns well with mediation, supported by modern legal frameworks like the Mediation Act, 2023. Empirical evidence shows high referral and settlement rates in mediation centres, demonstrating their effectiveness and acceptance. Mediation also enhances access to justice by providing faster, cost-effective, and amicable resolutions while preserving relationships. With legislative support, training, and technological integration, mediation has strong potential to reform India's judicial system towards more efficient and equitable dispute resolution.

In conclusion, the research posits mediation as a transformative tool that can shift India's justice system from adversarial litigation towards collaborative conflict resolution, contributing significantly to the decongestion of courts and improved justice delivery

"The principle of 'justice delayed being justice denied'" has echoed through legal discussions for several decades. In a world where litigation can be time-consuming and costly, the search for alternative methods to settle disputes is

increasingly essential. Mediation, serving as a pre-trial resolution method, stands out as a promising solution in this scenario”.

Definition of Mediation

Mediation is a voluntary, confidential, and structured process where a neutral third person, the mediator, helps the disputing parties to reach a mutually acceptable solution. The mediator does not make or impose decisions but facilitates dialogue, identifies issues, encourages mutual understanding, explores possible solutions, and guides parties to arrive at their own agreement. It promotes a win-win approach rather than an adversarial win-lose stance seen in traditional litigation.

As per Section 3(h) of The Mediation Act^[1], “Mediation is a process, whether referred to by the expression mediation, pre-litigation mediation, online mediation, community mediation, conciliation or an expression of similar import, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third person, a mediator, who does not have the authority to impose a settlement upon the parties to the dispute”.

What is pre-litigation mediation?

Pre-litigation mediation refers to the process of resolving disputes with the help of a neutral mediator to try and reach a mutual settlement before filing a formal lawsuit. The main purpose of pre-litigation mediation is to reduce the burden on courts and encourage amicable settlements between the parties.

Section 3(u) of The Mediation Act^[2] “Pre-litigation mediation is a process of undertaking mediation, as provided under section 5, for the settlement of disputes before the filing of a suit or proceeding of civil or commercial nature in respect thereof, before a court or notified tribunal under sub-section (2) of section 5”.

Section 89 of The Civil Procedure Code^[4] “allows courts to suggest or refer a case for alternative dispute resolution (such as arbitration, conciliation, judicial settlement (including Lok Adalat), or mediation) when they see a chance for amicable settlement that both parties can accept”.

Section 37 of the Consumer Protection Act^[4] “allows the District Commission to refer a case for mediation if it sees a possible settlement between the parties. The parties must give a written consent within five days if they agree to resolve their dispute by mediation”.

Section 12A of the Commercial Courts Act^[5] “makes pre-institution mediation mandatory for commercial disputes (except in cases that involve urgent interim relief). It ensures that parties try to resolve issues amicably before approaching the court. If a settlement is reached, it becomes legally binding like an arbitral award; if not, the parties can proceed to litigation”.

Importance Of Pre-Litigation Mediation

Pre-litigation mediation is an important proactive mechanism for resolving disputes before they reach the courts. It embodies the principle that justice need not always begin with litigation but can often be achieved through mutual dialogue and settlement.

Pre-litigation mediation offers a wide range of tangible advantages for individuals, businesses, and society at large. Its role is becoming more central in India due to judicial reforms and the Mediation Act, 2023.

- 1. Reduces judicial backlog:** By resolving disputes at a preliminary stage, it prevents unnecessary filings and eases the burden on already congested courts. This, in turn, allows the judiciary to focus on more complex and serious cases that genuinely require adjudication.
- 2. Cost and time saving:** Courts can be expensive, both in terms of fees and prolonged proceedings. Mediation enables parties to resolve disputes in weeks or months, rather than years, saving substantial resources.
- 3. Confidentiality:** Mediation is private. Unlike court cases, sensitive details remain out of the public record, protecting reputations and personal privacy.
- 4. Preserves relationships:** Since mediation is cooperative rather than adversarial, it is especially effective in fostering amicable relationships between parties and preserving business partnerships, family relations, and social ties that may be destroyed through litigation.
- 5. Control and flexibility:** Parties in mediation have more say in choosing mediators, setting schedules, and crafting solutions that meet their unique needs, compared to rigid court judgments.
- 6. Legally enforceable settlements:** Agreements reached in pre-litigation mediation are legally enforceable, often having the same effect as a court decree or arbitral award.

Societal Impact

Pre-litigation mediation aligns with the objectives of access to justice and restorative justice, ensuring that parties can resolve conflicts efficiently without formal legal intervention. It reflects a shift from an adversarial to a collaborative model of dispute resolution, thereby strengthening public trust in the justice delivery system.

In essence, pre-litigation mediation is a forward-looking, efficient, and humane way to handle disputes, enhancing both accessibility to justice and public confidence in the legal system.

Judicial Backlog In India: A Statistical Overview

Judicial Backlog refers to the accumulation of pending cases in courts that have not been resolved within a reasonable time.

Statistical analysis offers a measurable dimension to understand the scale and impact of mediation in the Indian justice delivery system.

Current State of pendency in Indian courts

- The current state of Pending Cases in Indian courts is critical, with over 5 crore cases remaining pending across all levels of courts as of 2025. Specifically:
 - The Supreme Court has about 86,700 pending cases.
 - High Courts face nearly 63.3 lakhs pending cases.
 - District Courts have 4.6 crore pending cases.

The President of India previously highlighted the issue as “Black Coat Syndrome”, indicating rising public distrust due to delayed justice.

2. The current state of India's Judicial Strength Deficit operates with just 15 judges per 10 lakh population v. the Law Commission's 50.
3. The current state of Civil v. Criminal Delay is 38.7% (civil cases) are disposed within a year in District Courts v. 70.6% (criminal cases).
4. The current state of the Vacancy Crisis is that 5,665 judge positions are vacant across courts; only 79% of sanctioned strength is filled.

This massive pendency causes serious delays, with many cases pending for years or even decades to reach a conclusion^[6], undermining the right to timely justice.

Justice delayed amounts to Justice denied for millions of Indians. Civil disputes often linger in the system for 8-10 years on average. Commercial disputes suffer particularly extended timelines. This affects investor confidence and economic growth. Criminal cases face even more severe delays. Undertrial prisoners sometimes spend more time in jail than their potential sentences^[7]. The same has been highlighted as an issue in a case of Hussainara Khatoun v. State of Bihar^[8], in which the Supreme Court ruled that the right to a speedy trial is part of the fundamental right to life under Article 21 of the Constitution. The Court recognized that delay in criminal trials causes serious injustice, often leading to prolonged detention of undertrial prisoners.

The Supreme Court in *Imtiyaz Ahmad v. State of Uttar Pradesh*^[9] highlighted issues of excessive delays, sometimes more than ten or even twenty years, at various stages in criminal cases (like after charge-sheets or during trial), resulting from repeated adjournments and stay orders in High Courts, and emphasized that such delays violate the constitutional right to timely justice and demand urgent systemic reforms. As the Court has acknowledged this issue, it emphasized the need for a National Court Management System to monitor timelines and judge performance.

Justice Dattu observed that the long delays in the disposal of criminal cases have a serious impact on the rule of law and fundamental rights of citizens, particularly the right to a speedy trial under Article 21 of the Constitution. He emphasized that delays lead to evidence becoming stale, witnesses losing memory, and ultimately, the denial of justice, which cannot be justified under any circumstances. Therefore, he highlighted the urgent need for systemic reforms, increasing judge strength, and effective case management to address the burgeoning pendency and ensure timely justice.

Causes of judicial backlog in India

1. **Low Judge-to-Population Ratio:** India has only 15-21 judges per million people, far below the recommended 50, and one of the lowest ratios globally. This results in an overwhelming workload for judges, slowing down case disposal.
2. **Rise in Litigation:** The rise in legal awareness, along with tools such as Public Interest Litigation (PIL), has resulted in a higher volume of cases being filed. Litigants often approach courts for even minor disputes, including those that lack merit, which further adds to the congestion in the judiciary. Almost 50% of all pending cases involve the government as a party, thereby intensifying the pressure on the courts.

3. **Adversarial Legal System:** The Indian judicial system promotes numerous interim applications and repeated appeals, which extend the litigation process. Additionally, legislation such as the Bihar Prohibition and Excise Act of 2016 has further congested high courts with bail requests.

4. **Infrastructural and Procedural Deficiency:** Insufficient courtrooms and delays in digital infrastructure hinder the progress of legal proceedings. Financial limitations restrict the growth of judicial capacity. Adjournments, challenges in finding witnesses, and delays in acquiring evidence all add to the existing backlog.

5. **Judicial Vacancies and Administrative Delays:** A significant number of judicial posts remain vacant across various levels of the judiciary. Frequent transfers, delays in appointments, and administrative inefficiencies further slow down case disposal.

6. **Inadequate Use of Technology:** Though e-courts and digital filing systems are expanding, their adoption remains uneven across regions. Manual recordkeeping and poor digitization delay case tracking and management.

7. **Frivolous and Vexatious Litigation:** A significant number of cases are filed with the intention of harassment or delay instead of pursuing legitimate justice. These cases unnecessarily waste valuable judicial time and resources.

8. **Underutilized ADR Mechanisms:** Although Alternative Dispute Resolution (ADR) Mechanisms like mediation, arbitration, and conciliation are available, they are not widely used.

The judicial backlog in India is not caused by a single factor but by an interlocking web of excessive litigation, resource shortages, procedural rigidity, and cultural attitudes toward dispute resolution. Strengthening pre-litigation mediation, streamlining procedures, and increasing judicial capacity are essential to address this crisis effectively.

Role Of Pre-Litigation Mediation In Reducing Judicial Backlog

Pre-litigation mediation plays a crucial role in reducing the judicial backlog in India by facilitating early dispute resolution before cases even reach the courts. India faces an enormous case backlog of over 5 crore pending matters across courts, severely delaying justice delivery. By providing a structured yet flexible framework for settlement, pre-litigation mediation serves as both a preventive and curative mechanism for judicial backlog.

1. **Speedy and Cost-Efficiency:** Litigation in India is notorious for its delays and expenses. One of the most admired benefits of pre-litigation mediation is its speed and cost-effectiveness, because the court battle, which can stretch for years, can usually be concluded within a few sessions by mediation, and since mediation is generally less expensive than traditional litigation, it does not have court fees, as the process, being shorter, results in reduced legal fees. The same has been

demonstrated in the case of Mohan Tiwari v. Laxmi Pati, where a decade-long property dispute was resolved within three sessions of mediation. This case exemplifies how mediation can significantly reduce the time and financial burden on disputing parties and alleviate the pressure on courts by settling disputes early.

2. **Confidentiality:** Unlike court proceedings, which are open to the public, mediation guarantees confidentiality. The conversations, suggestions, and compromises remain private, safeguarding sensitive information from becoming public knowledge.
3. **Control and Autonomy:** One of the fundamental principles of mediation is that the parties have control over the final result. Unlike litigation, where a judge renders a binding decision, mediation empowers the parties to negotiate their own agreement, with the mediator assisting them in exploring possible solutions.
4. **Preservation of Relationships:** Mediation, as a non-confrontational approach, helps in maintaining personal or business relationships through amicable dialogue that could otherwise be jeopardized in adversarial litigation.
5. **Promoting Voluntary Compliance and Reducing Appeals:** Since settlements in mediation are based on mutual consent, parties comply voluntarily with agreed terms. Unlike court judgments that often lead to appeals or enforcement challenges, mediation fosters satisfaction on both sides, reducing the chances of disputes within the judicial system.
6. **Encouraging a Culture of Dialogue:** Pre-litigation mediation promotes a collaborative mindset rather than an adversarial approach to dispute resolution, encouraging parties to resolve conflicts through dialogue rather than confrontation. This shift from an adversarial to a cooperative approach reduces the rush to courts and fosters a more harmonious legal culture.
7. **Strengthening Access to Justice:** Pre-litigation mediation offers an accessible and less intimidating forum for dispute resolution, improving access to justice, particularly for individuals and small businesses unable to endure lengthy court procedures.

Pre-litigation Mediation resolves civil, commercial, family, consumer, and property disputes, allowing courts to focus on criminal and constitutional cases, reducing their workload.

- NITI Aayog (National Institution for Transforming India) suggests pre-litigation mediation in government cases to ease court congestion and minimize legal disputes.
- Pre-litigation Mediation helps resolve business, family, and community disputes while preserving relationships, often leading to amicable settlements in matrimonial cases.

The Mediation Act, 2023, grants mediation settlements the force of court decrees and mandates resolution within the time limit of 120 days (extendable by 60 days), ensuring

efficient dispute closure. However, cases related to criminal offences, third-party rights, and taxation are exempt from mediation.

Under the Commercial Courts Act, 2015, parties are mandated to try pre-institution mediation before entering courts (except in cases that involve urgent interim relief).

The Code of Civil Procedure, 1908, includes ADR methods like Arbitration, Mediation, and Conciliation for resolving disputes outside traditional court proceedings.

In essence, Pre-litigation Mediation aligns with the judicial vision that courts should serve as a last resort. It promotes amicable settlements and significantly reduces India's judicial backlog crisis by preventing case accumulation and speeding up dispute resolution before it burdens the courts.

The Role of Judicial Endorsement in Promoting Pre-Litigation Mediation in India

Judicial endorsement has played a crucial role in integrating pre-litigation mediation into mainstream practice in India. Through its rulings, institutional initiatives, and persistent advocacy, the judiciary has transformed mediation into a reliable, accessible, and effective method that helps alleviate judicial backlog and improve access to justice. The Supreme Court of India has been instrumental in promoting ADR mechanisms, particularly mediation, in the Indian legal system^[10].

The Supreme Court in Patil Automation Pvt Ltd v. Raheja Engineers Pvt Ltd^[11] held that under Section 12A of the Commercial Courts Act, 2015, parties must attempt pre-institution mediation before filing commercial suits, except for urgent interim relief. This landmark judgment made mediation a mandatory threshold, reinforcing its role as the first step in dispute resolution.

The Supreme Court in M/s Dhanbad Fuels Pvt. Ltd. v. Union of India & Anr^[12] held that Section 12A is mandatory and non-compliance requires rejection of the plaint under Order VII Rule 11(d) CPC, rejecting procedural loopholes or infrastructural excuses. The Court emphasized that the legislative intent was to reduce court burdens and promote early resolution through mediation, underscoring the substantive nature of the mediation requirement. Therefore, the Court addressed the retrospective vs. prospective application of mandatory mediation, balancing fairness for ongoing cases with enforcement of mediation requirements for future suits. This case further reaffirmed the principles laid down earlier in Patil Automation Pvt Ltd v. Raheja Engineers Pvt Ltd (2022) and clarified the prospective application of mandatory mediation.

The Supreme Court in Yamini Manohar v. T.K.D. Keerthi^[13] emphasized the need to prevent misuse of the pre-litigation mediation mandate under Section 12A of the Commercial Courts Act, 2015. The Court held that Commercial Courts must carefully scrutinize whether urgent interim relief is genuinely contemplated by examining the plaint, documents, and facts. It cautioned courts against allowing parties to bypass mandatory mediation by seeking only interim relief as a disguise or delay tactic. The Court made clear that the legislative intent behind Section 12A was to promote early resolution and decongest courts, and this should not be defeated by parties misusing the urgent relief provision to evade mediation.

The Supreme Court in Afcons Infrastructure Ltd v. Cherian Varkey Construction Co (2010)^[14] institutionalized judicial encouragement of mediation and other ADR methods under

Section 89 CPC, directing courts to actively refer cases for mediation to reduce backlog, promote early settlement, and avoid delays.

The Supreme Court in *Silpi Industries v. Kerala State Road Transport Corp* (2021) ^[15] emphasized the need for exhausting pre-institution mediation to give effect to legislative intent and promote ADR ^[16].

The Role of Institutional Frameworks in Promoting Pre-Litigation Mediation In India

1. Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018

The Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018, were notified by the Ministry of Law and Justice in India, operationalizing Section 12A of the Commercial Courts Act, 2015. These rules require that no suit relating to a commercial dispute, unless urgent interim relief is sought, shall be instituted without first exhausting pre-institution mediation. They designate District Legal Services Authorities (DLSAs) as nodal agencies facilitating accessible and cost-effective mediation.

2. District Legal Services Authorities (DLSA)

District Legal Services Authorities (DLSAs) are statutory bodies established under Section 9 of the Legal Services Authorities Act, 1987. It is constituted by the State Government in consultation with the Chief Justice of the respective High Court. Each DLSA operates at the district level and is headed by the District Judge as its Ex-Officio Chairman. The DLSAs act as key institutional bodies coordinating mediation services at the district level. It includes notifying opposing parties, appointing mediators, and ensuring the process is accessible and cost-effective.

3. The Mediation Act, 2023

It provides a comprehensive, standardized legal framework for mediation across India, including voluntary pre-litigation mediation, accreditation and qualification standards for mediators, and enforceability of mediated settlement agreements. It institutionalizes mediation in India as an efficient, credible, and legally enforceable alternative dispute resolution mechanism, strengthening judicial and legislative endorsement for pre-litigation mediation.

4. High Court and District Court Mediation Centres

High Court and District Court Mediation Centres in India are institutional mechanisms established within or near court premises to facilitate pre-litigation and court-referred mediation. These centres provide the necessary infrastructure, including dedicated rooms for joint and private mediation sessions, administrative staff, and technology-enabled facilities such as video conferencing. These centres conduct mediation efficiently and accommodate that mediation can be court-referred or pre-litigation.

Example: The Delhi High Court Mediation and Conciliation Centre 'Samadhan'

5. Mediation Council of India (proposed under the Mediation Bill)

The Mediation Council of India (MCI), established under Section 31 of the Mediation Act, 2023, is a statutory, corporate body created by the Central Government to regulate and promote mediation across India. It is expected

to regulate mediators, mediation service providers, and institutes offering training, ensuring quality and professionalism in mediation practice nationally.

6. Mediation and Conciliation Project Committee (MCPC)

The Mediation and Conciliation Project Committee (MCPC) is a statutory body constituted by the Supreme Court of India in 2005 under the administrative order of the then Chief Justice of India, Hon'ble Mr Justice R.C. Lahoti. Its primary mandate is to oversee and ensure the effective implementation and promotion of mediation and conciliation as alternative dispute resolution mechanisms across India. It institutionalizes mediation within the judicial ecosystem by fostering professionalism, ensuring ethical conduct, expanding mediator availability, and promoting mediation awareness.

Suggestions/Recommendations

To strengthen pre-litigation mediation in India and reduce judicial backlog, a combination of

- 1. Spread Awareness and Legal Literacy:** Organize awareness campaigns, legal aid, workshops, and educational programs to help citizens understand the advantages of pre-litigation mediation as a quicker and cheaper alternative to litigation.
- 2. Strengthen Institutional Frameworks:** Establish and modernize mediation centres across India, particularly at the District and Sub-District levels, including online mediation platforms for easy access.
- 3. Uniform Training and Accreditation of Mediators:** To ensure quality and professionalism, a standardized training and certificate system should be established under the Mediation Act, 2023.
- 4. Incentivising Lawyers and Litigants:** The participation of advocates is crucial for the success of mediation. The Judiciary must consider offering recognition, continuing legal education credits, or incentives for lawyers who encourage clients to opt for pre-litigation mediation. Similarly, reducing court fees for disputes settled through mediation could motivate parties to choose this route.
- 5. Government Role:** Introduction of mediation cells in every government department, along with mandatory review mechanisms before filing suits, can drastically reduce the inflow of cases to courts. It therefore curbs excessive litigation by the State.
- 6. Effective Implementation of the Mediation Act, 2023:** It should be implemented with clarity and uniformity across all jurisdictions. Rules should clearly define the scope of pre-litigation mediation, mediator duties, and timelines to avoid procedural confusion. Periodic performance audits of mediation centres and data reporting on success rates will help assess progress and guide policy improvements.
- 7. Judicial Oversight:** Courts should continue to endorse and monitor pre-litigation mediation by referring appropriate cases and ensuring compliance with

statutory mandates. Judicial officers should receive specialized training on identifying cases suitable for mediation and facilitating referrals at the earliest possible stage.

With proper implementation of these factors, pre-litigation mediation can evolve into a cornerstone of India's justice delivery system, ensuring speedy, affordable, and participatory justice for all.

Conclusion

Pre-litigation mediation serves as a crucial reform mechanism that can change India's long-standing litigation-dominated justice system into a more collaborative and less adversarial way of resolving disputes. This transformation is essential in a country facing a huge judicial backlog, over 5 crore cases pending as of 2025, which undermines timely access to justice. Mediation plays a vital role in reducing this backlog by allowing parties to reach quick, affordable, and amicable settlements before conflicts escalate to full judicial proceedings. This approach helps to maintain relationships by promoting cooperation rather than conflict, often preserving business, family, and social connections that litigation could damage.

However, the research identifies several constraints that limit the potential of mediation, such as a lack of awareness, limited resources, uneven mediator quality, etc. To effectively integrate mediation into mainstream practices, the paper emphasizes the need to strengthen institutional frameworks, promote judicial support by ensuring that courts actively refer cases for mediation, and implement standardized training, among other measures.

The Mediation Act, 2023, establishes mediation as a formal process with enforceable agreements and requires mandatory pre-litigation steps for certain disputes, representing a significant advancement in legislation. In general, pre-litigation mediation supports the principle that "Courts must be the last option," offering a justice system that is accessible, participatory, and cost-effective, which is crucial for relieving the burden on India's judicial system and improving access to justice for everyone.

This study highlights the potential of mediation to transform the legal system, the challenges it faces, and the practical ways to enhance its role in India's legal framework.

References

1. The Mediation Act, 2023
2. The Mediation Act, 2023
3. The Civil Procedure Code, 1908
4. The Consumer Protection Act, 2019
5. The Commercial Courts Act, 2015
6. National Judicial Data Grid, "Monthly Summary Report".
7. Bharat Prakash and Jyotirmoy Banerjee, "Evaluating the Effectiveness of Court-Annexed Mediation in Reducing Judicial Backlogs", 4 IJHRLR 525 (2025).
8. Hussainara Khatoun v. State of Bihar (1979) 1 SCC 481.
9. Imtiyaz Ahmad v. State of Uttar Pradesh (2012) 2 SCC 688.
10. Harsh Mahaseth, Evaluating Mandatory Pre-Litigation Mediation under the Commercial Courts Act in India 46 (1st ed. 2025).
11. Patil Automation Pvt Ltd v. Raheja Engineers Pvt. Ltd, Civil Appeal No. 14697 of 2021 (Supreme Court of India Aug. 17, 2022) (2022) 10 SCC 1.
12. M/s Dhanbad Fuels Pvt. Ltd. V. Union of India & Anr., Civil Appeal No. 6846 of 2025 (Supreme Court of India May 15, 2025).
13. Yamini Manohar v. T.K.D. Keerthi, 2023 SCC Online SC 1382 (Supreme Court of India 2023).
14. Afcons Infrastructure Ltd. V. Cherian Varkey Construction Co. P. Ltd., Civil Appeal No. 6000 of 2010 (Supreme Court of India July 26, 2010), (2010) 8 SCC 24.
15. Silpi Industries v. Kerala State Road Transport Corporation, (2021) 2 SCC 776, Supreme Court of India.
16. Mandatory Pre-Litigation Mediation in India: Legal Framework, Benefits, and Challenges, LAW NOTES (July 10, 2024), (last visited Nov. 1, 2025), <https://lawnotes.co/%e2%9a%96%ef%b8%8f-mandatory-pre-litigation-mediation-in-india-legal-framework-benefits-and-challenges/#>.
17. The Code of Civil Procedure, 1908.
18. The Arbitration and Conciliation Act, 1996.
19. The Commercial Courts Act, 2015.
20. The Consumer Protection Act, 2019.
21. The Legal Services Authorities Act, 1987.
22. The Mediation Act, 2023.
23. Patil Automation Pvt. Ltd. v. Raheja Engineers Pvt. Ltd (2022).
24. M/s Dhanbad Fuels Pvt. Ltd. v. Union of India & Anr (2023).
25. Yamini Manohar v. T.K.D. Keerthi (2023).
26. Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010).
27. Silpi Industries v. Kerala State Road Transport Corporation (2021).
28. Hussainara Khatoun v. State of Bihar (1979).
29. Imtiyaz Ahmad v. State of Uttar Pradesh (2012).
30. Mohan Tiwari v. Laxmi Pati (2021).
31. Mediation and Conciliation Project Committee (MCPC).
32. Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018.
33. District Legal Services Authorities (DLSA).
34. Delhi High Court Mediation and Conciliation Centre – "Samadhan".
35. NITI Aayog Recommendations (2020).
36. Harsh Mahaseth, Evaluating Mandatory Pre-litigation Mediation under the Commercial Courts Act in India.
37. Paras Chauhan and Prof. Ajay Kumar, Evaluating the Efficiency of ADR in Delivering Prompt Justice.
38. Lokeshwari Parvatanemi, Whether Pre-litigation Mediation in India Should Be Mandatory? Assessing Perspectives and Proposing a Path Forward.
39. Bharat Prakash and Jyotirmoy Banerjee, Evaluating the Effectiveness of Court-Annexed Mediation in Reducing Judicial Backlogs.
40. Huma Sardar, Pre-Trial Dispute Resolution Mechanism: Evaluating Its Efficacy in Reducing Court Backlogs and Enhancing Access to Justice
41. Law Commission of India, Report No. 222 (2009).
42. Department of Justice, National Judicial Data Grid (2025 Reports).