
A STUDY ON THE LEGAL STATUS AND ENFORCEMENT OF MEDIATION SETTLEMENTS IN INDIA

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ABSTRACT

The Mediation Act, 2023, is landmark legislation that aims to establish and promote mediation as the favored mode of dispute resolution in civil and commercial matters. By providing for an attempt to mediate before filing a suit, the Act seeks to ensure that parties take the mediation route first and thereby reduce the number of cases in courts. The Act also attributes the highest legal status to the settlement concluded through mediation and thus allows it to be directly enforceable as a court decree. One of the important changes brought by the Act is the creation of the Mediation Council of India to oversee the profession and conduct of mediators. In addition, the law broadens the mediation concept to involve technology and community initiatives, thus rendering dispute resolution more comfortable, less time-consuming, and less expensive. There is also an assurance of absolute secrecy regarding what is communicated during the mediation session; the settlement must be signed by the parties and the mediator, and any challenge to it is only allowed in the case of fraud, corruption, or non-mediable subject matter. Whereas, mediation is not allowed for disputes involving criminal prosecution, serious fraud, third-party rights, or government regulatory actions. The legislation brings India on par with international practices and the Singapore Convention, removes the need for separate conciliation provisions, and pretty much sets the stage for the next generation of dispute resolution by means of technology. Among the numerous benefits anticipated from the implementation of the Mediation Act are the development of a cooperative legal culture, reduction of the judicial backlog, and strengthening of India's position as a jurisdiction that is globally progressive and friendly to ADR.

Keywords: Mediation Act 2023, Mediation Settlement Enforceability, Mediation Council of India, Alternative Dispute Resolution (ADR), Enforcement Challenges

INTRODUCTION

The Mediation Council of India (MCI), formed as per the Mediation Act, 2023, is a central regulatory body that aims to oversee and encourage mediation activities in India. Apart from the traditional court system, it is a very important step in establishing an alternative, formal, legitimate dispute resolution method through the use of mediation.

The MCI is assigned the duties of accrediting, certifying, and supervising mediators who should be the most competent and the ones with the highest ethical standards among the rest. This is solving the problem of the different levels of quality of local mediators and also the lack of standardised training for mediators throughout India. The council determines the moral standards and professional level of mediators as well as of the mediation-service providers aiming to increase the trustworthiness of the mediation results. In addition, it provides for the rules and regulations of the organisation and the running of the mediation institutions, as well as the online mediation platforms which are very crucial in the present era of the digital revolution for easy access to justice and accommodation of the digitalised shift in dispute resolution. The MCI is in charge of compiling records of mediation proceedings and settlement agreements in an electronic

format which makes enforcement transparent and easy at the same time confidentiality is guaranteed through the provision of controlled access.

Outside its function of regulation, the MCI works for mediation to be recognised as the most suitable method of dispute resolution through, among other things, informing the public and training programs for mediators as well as the general public. It also cooperates with foreign mediation organisations to make the Indian mediation framework comparable to the worldwide best practice thus increasing India's rank as a mediation-friendly location.

One of the main effects on dispute settlement of the MCI establishment under the Mediation Act, 2023 is the signal of a judicial paradigm change in India by incubating the idea of a quick legal solution to backlogged court cases. At the same time, the Council's supervisory role makes parties more willing to use mediation, which results in better settlement levels and, thus, less frequent disputes take longer to be solved. Such organisational support is crucial for the continuous development of mediation, as it reassures the parties of the mediation's integrity and fairness and also confirms its place in the wider justice system.

Research problem

This research project aims to reveal the realities on the ground that, despite the Introduction of the Mediation Act, 2023, which lays down a well-structured framework for the promotion of mediation and grants legal enforceability to mediation settlements, there are still many problems that hinder its implementation and enforcement in practice. There are still doubts about whether the accreditation of mediators is uniform, whether the Mediation Council of India is effective in regulating mediation practices, and to what extent mediated settlements can be enforced as court decrees without any indeterminacy or delay in the procedure. Additionally, there is a lack of clarity in terms of separating mediable from non-mediable disputes, differences in public knowledge and trust in mediation as a proper way of resolving disputes, and doubts as regards the use of online mediation and the enforcement of cross-border disputes under the international conventions. Therefore, the main issue of this study is to ascertain whether the Mediation Act, 2023, effectively provides for the legal enforcement of mediation settlements as court decrees and if they are trusted as instruments of dispute resolution in India, as well as to locate the practical, legal, and institutional challenges that obstruct their enforcement.

Research Objective

1. To examine the legality of mediation settlements and their compliance with the Mediation Act, 2023, in India and to find out how such settlements are being considered on par with court decrees in the Indian judicial system.
2. To study the obstacles of a practical, legal, and institutional nature in the execution and enforcement of mediation settlements, the efficacy of the Mediation Council of India, and the general effect of the Act in facilitating mediation as a trustworthy source of dispute resolution.

Literature Review

Legal recognition and enforceability of settlement agreements:

The 2023 Mediation Act formally recognizes MSAs as equivalent to court orders, thus allowing direct enforcement under Section 27 without the necessity of a separate civil court procedure [legalblogs.wolterskluwer.com] [mediationblog.kluwerarbitration.com] This recognition by law has been characterized as a vital moment in the journey of providing legal security and

closure to the outcomes of mediation. Academics acknowledge that this provision for enforcement sets the Act apart from earlier ADR structures in India, which did not provide for direct enforcement and therefore caused delays and hampered the effectiveness of mediation.

Procedural safeguards and restrictions:

The analysts refer to the function of Section 28 in restricting the possibilities of challenging the MSAs, as it narrows the reasons to fraud, corruption, impersonation, or non-mediable subject matter and also sets very stringent 90-day periods for the challenge of the time [legalblogs.wolterskluwer.com] [nishithdesai.com]. Such a solution protects the settlement's finality and effectiveness; however, it also raises issues regarding the judge's interpretation of the enforcement and challenge proceedings' interaction, as some think that more explicit procedural rules are necessary to avoid delay of cases.

The Mediation Council of India (MC):

The research on law underlines the importance of the MCI in this respect, as it is responsible for the accreditation of mediators, the regulation of service providers, and the dissemination of uniform mediation practice throughout the [iicrt.org] [taxtmi.com]. By founding the MCI, the problem of fragmentation in quality and training of the mediator is found to be solved. Nevertheless, literature points out that challenge still exist in fully operationalizing the MCI, with regional disparities in accreditation and lack of infrastructure hindering quality assurance at a uniform level.

Enforcement Issues and Practical Challenges:

Although there are strong legal provisions, the enforcement of MSAs is facing practical challenges such as uneven judicial understanding, lack of facilities, and mistrust of the public, especially in rural areas [ijicrt.org] [legalblogs.wolteskluwer.com]. In these articles, one can find the calls for better judicial training, simplification of enforcement procedures, and extensive awareness initiatives as measures that will facilitate the implementation of mediation and ensure the compliance thereof.

Enforcement of cross-border mediations:

A number of sources debate the limitation of the Act in the enforcement of the mediated

settlements that are carried out beyond the Indian jurisdiction and mention this gap concerning the Singapore Convention [nishithdesai.com] [legalblogs.wolterskluwer.com]. Timely legislative changes to harmonize with global mediation enforcement norms are suggested not only to India's position as an ADR hub of the world but also to the convenience of many parties worldwide.

Technology and Online Mediation:

The authors are of the opinion that the Act is a visionary one by supporting the online and community mediation methods which they consider essential for the widening of mediation access as well as the adjustment to India's digital transformation [mediationblog.kluwerarbitration.com]. There are, however, some difficulties in the realization, such as the integration of digital platforms and the establishment of confidentiality.

Research Questions

1. To examine the legality of mediation settlements and their compliance with the Mediation Act, 2023, in India and to find out how such settlements are being considered on par with court decrees in the Indian judicial system.
 - How does the Mediation Act, 2023 define and regulate the legality of mediation settlements in India?
 - In what ways are mediation settlements considered equivalent to court decrees under the Indian judicial framework?
2. To study the obstacles of a practical, legal, and institutional nature in the execution and enforcement of mediation settlements, the efficacy of the Mediation Council of India, and the general effect of the Act in facilitating mediation as a trustworthy source of dispute resolution.
 - What are the practical, legal, and institutional obstacles affecting the execution and enforcement of mediation settlements in India?
 - How effective is the Mediation Council of India (MCI) in implementing the provisions of the Mediation Act, 2023, and promoting mediation as a reliable and trusted method of dispute resolution?

CHAPTERISATION

The present paper is distributed across five chapters, broadly comprising the introduction and the conclusion.

Chapter One: Introduction and Legislative Background

- Overview and objectives of the Mediation Act, 2023
- Evolution of mediation in India
- Significance of mediation settlements and the Mediation Council of India
- Current legal status in 2025

Chapter Two: Legal Status of Mediation Settlements under the Act

- Definition and scope of mediation and settlements under the Act
- Statutory recognition and enforceability of mediated settlement agreements (Section 27)
- Legal equivalence of settlements and court decrees
- How does the Act define and regulate the legality of mediation settlements?
- In what ways are mediation settlements considered equivalent to court decrees?

Chapter Three: Enforcement Mechanisms and Challenges

- Procedural framework for the enforcement of mediation settlements
- Grounds and timeline for challenging mediated settlements (Section 28)
- Practical and legal challenges impacting enforcement
- What are the practical, legal, and institutional obstacles affecting enforcement

Chapter Four: Role and Efficacy of the Mediation Council of India

- Composition, powers, and functions of the Mediation Council of India
- Its role in accreditation, regulation, standard-setting, and promoting mediation
- Assessment of MCI's effectiveness in implementing the Act
- How effective is the Mediation Council in promoting mediation as a reliable resolution method?

Chapter Five: Conclusion and Recommendations

- Summary of findings on legality, enforcement, and regulatory performance
- Policy and legal recommendations to address identified challenges
- Future prospects for mediation in India and the transformative potential of the Mediation Act, 2023

Chapter One: Introduction and Legislative Background

1.1. Overview and Objectives of the Mediation Act, 2023

The Mediation Act, 2023, is an Indian dispute resolution landscape paradigm shift law, which by its very nature, makes mediation the statutory and the most preferred method of easy and fast conciliation of civil and commercial disputes. The main goal of the law is to put mediation into practice by making it a compulsory attempt before court proceedings in certain cases, thus alleviating the courts of the burden of the countless pending cases. The law commands that mediation settlement contracts are the most enforced legal instruments and are equal in effect to the decree of a civil court. It envisions remote mediation and community mediation, dissolving the boundaries of the traditional mediation concept that can be adapted to technological and societal developments. The law is very alive to the need of the time and provides stringent protections against the disclosure of mediation communications, the latter being subject to some very limited and specific grounds upon which one can challenge a settlement, like fraud, corruption, or non-mediable subject matter. The law projects a cooperative dispute resolution culture as its harmonious end and seeks to achieve the same by incorporating worldwide norms such as the Singapore Convention, as well as modernising

India's alternative dispute resolution system for the better accessibility and efficiency of the same.

1.2. Evolution of Mediation in India

Mediation used to be an Indian traditional practice, although the courts would frequently get involved. The Code of Civil Procedure - Section 89, and various other state rules, were the chief regulators of mediation. Before the enactment of the Mediation Act, mediation was considered a non-binding, informal, and legally unenforceable entity, which, in turn, limited its usage and effectiveness. Attempts to encourage mediation were only fragments of a whole and no central regulatory authority existed to guarantee the uniformity of the standards for mediators or the process integrity. The Mediation Act, 2023, is a single law that consolidates and supersedes those fragmented piecemeal frameworks, thereby creating a comprehensive legal structure that integrates mediation into Indian civil law and the legal system as the third pillar of dispute resolution. The Act also aligns India with global best practices and formally recognises tech-based mediation, thus making India a viable hub for the ADR of the future and aiding mediation in its role as a trustworthy option for legal battles that drag on for years.

1.3. Significance of Mediation Settlements and the Mediation Council of India

The law makes mediation settlement agreements judicial decrees that uphold the law of civil proceedings and, thereby, are enforceable right away. This transformation of mere contracts into enforceable decrees does one of the great works mediation and parties beforehand struggled with - that of ensuring compliance and thereby preventing enforcement battles. Under the law, the establishment of the Mediation Council of India (MCI) is essential for securing the highest ethical and professional standards throughout the entire mediation field. Apart from that, the MCI has the power to accredit and certify mediators, regulate providers of mediation services, and establish national standards and guidelines. To facilitate transparency without jeopardising confidentiality, it also operates a private electronic archive of mediation sessions and settlement papers. The Council, being a regulator as well as a promoter, is responsible for the competence-building programs, the public awareness campaigns, the mediator training courses, and the international cooperation that help mediation become deeply implanted in the Indian justice system.

1.4. Current Legal Status in 2025

By 2025, the Mediation Act, 2023, will have been fully put into practice. Its recognition is expanding throughout the justice, government, and business sectors. Even though the Mediation India Council's notification and staffing are still in process, the government has already taken steps to advertise the merits of mediation and enhance the training of certified mediators. Judicial institutions are performing the statutory obligation to transfer cases to mediation. So, in courts mediated settlement agreements are gradually attaining judicial respect and being executed as readily as court decrees. Following the Act's provisions, online platforms for remote dispute resolution have also become popular, especially given the current trend towards telecommuting. However, there are still such adoption problems as the uneven distribution of facilities, poor rural areas with low awareness, and initial resistance from conservatives among legal professionals. Nevertheless, this is widely perceived as a revolutionary measure that seeks to realign India's Justice delivery with the ideals of efficiency, cooperation, and Technology integration. The chapter expounds on the legislative intent, historic context, and the present state of implementation of the Mediation Act, thereby preparing a roadmap for the deeper analysis in the coming chapters.

Chapter Two: Legal Status of Mediation Settlements under the Act

2.1. Definition and Scope of Mediation and Settlements under the Act

The Mediation Act, 2023 intricately defines "mediation" as any process, third-party or no third-party, with a neutral third party - the mediator against spouting parties themselves attempting to solve their dispute by peaceful means. The Act is quite comprehensive in its understanding of mediation as it includes various forms such as pre-litigation, court-annexed, institutional, online, and community mediation and, therefore, can be used in both civil and commercial matters. "Mediated settlement agreement"(commonly MSA) is the signed document organized process disagreement of MSA parties facilitated by a mediator. The Act, however, explicitly leaves some disputes out of its scope: those cases of criminal prosecution, issues concerning minors or persons of unsound mind, third-party rights, and government regulatory actions are not considered mediable"

2.2. Statutory recognition and enforceability of mediated settlement agreements (Section 27)

Section 27 of the Mediation Act, 2023 is a landmark in many respects as it goes beyond just

recognising the settlements and also allows them to be enforced. It is in this provision that a settlement reached and signed by all the disputing parties and verified by the mediator becomes endowed with the status of a lawfully binding instrument. The parties are allowed to enforce their settlement as if it were a court decision. In other words, they catalysectly apply for enforceable courts without going through additional legal proceedings first. This is what makes mediation a credible alternative to lengthy and expensive court disputes, with all the benefits that follow such as less procedural delays and quicker compliance with agreed outcomes.

2.3. Legal Equivalence of Settlements and Court Decrees

The Act clearly stipulates that a properly executed and verified mediated settlement agreement shall be regarded legally as if it were a court decision. Apart from that, it is a guarantee in practice that mediation settlements are endowed with the same execution power, legal certainty, and are protected similarly to court rulings. Such legal equivalence rings in several ways practical benefits for instance:

- On one hand, parties have the opportunity to put the settlement into effect using judicial execution methods (e.g. property attachment or any other remedy allowed under the Code of Civil Procedure, 1908).
- On the other hand, the settlement may serve as evidence in upcoming cases where it can be utilized for defense, set-off, or as a source for resolving interconnected matters.
- Finally, this point is about the disappearance of the possibility of further appeals or challenges that may be raised against verdicts that have been challenged and are now decided, with the exception of a few situations such as fraud or misrepresentation ones.

2.4. How does the Act define and regulate the legality of mediation settlements?

What the Act Says About the Definition and Regulation of Legality of Mediation Settlements?

According to the Act, the legality of mediation settlements is the foundation that depends on adherence to the given procedural safeguards:

- The written agreement must be signed by all parties involved in the dispute and must be authenticated by the mediator.

- The dispute must pertain to a "mediable subject (not covered by the Act's exclusions).

Parties have to take part in the process on their own accord and must also be fully aware of everything.

- Throughout the process, mediator neutrality as well as party confidentiality is ensured. MSA challenges are only allowed on a few specific grounds: fraud, corruption, impersonation, non-mediable subject matter. If any of these cases occurs, the challengers should come to civil courts within a set period (generally, ninety days that can be extended for another ninety at the court's discretion) to raise an objection.) By setting out these safeguards, the Act intends to make sure that only those settlements which are genuine, voluntary, and compliant with the set procedures get to achieve legal status and can be enforced, thereby raising the confidence of the parties in mediation.

2.5. In what ways are mediation settlements considered equivalent to court decrees?

-The two kinds of documents, mediated settlements and court decrees, are legally enforceable by the same judicial authorities.

-The preclusive effect of MSAs is on a par with that of judgments rendered by courts, thus providing closure to the parties regarding the issues resolved.

-MSAs, similar to court decrees, are safeguarded against attacks from a different angle except for narrowly and clearly defined grounds.

-The immediate implementation of MSAs considerably shortens the time needed for the resolution of disputes which is, among other things, a great benefit in the field of commerce.

Chapter Three: Enforcement Mechanisms and Challenges

3.1. Procedural Framework for Enforcement of Mediation Settlements

The Mediation Act, 2023 outlines a definite and organic outline for the enforcement of SAs, mainly through Section 27, which equates an MSA to a court decree. The pact enters into force after the parties to the dispute and the mediator have signed it. Then, the MSA can be executed through civil courts or tribunals in accordance with the Code Civil Procedure. The parties may demand the execution of the terms, which may include attachment or sale of property to

discharge the terms of the settlement. Besides, the Act requires the MCI to centrally store MSAs in electronic form to provide an open and transparent account of enforcement proceedings. This simplified enforcement mechanism is compliant with the time limits set by the ground procedures and thus eliminates any unnecessary delay or procedural redundancy. It also creates an atmosphere of sound law and judicial practice and hence helps to catalyze the prompt execution catalyzed resolutions.

3.2. Grounds and Timeline for Challenging Mediated Settlements (Section 28)

Point 28 of the Mediation Act, 2023 is closely connected with litigious disputes regarding the validity of MSA and contains a restriction in that respect. Section 28 limits the range of dispute sources to cases of court fraud, corruption, imitation, or a situation where the court cannot mediate a subject. The Act narrows the time in which such challenges can be brought: in most instances, a challenge must be brought within ninety days of the signing of the agreement, with the court's possibility for granting an extension of another ninety days. This restriction aims at guaranteeing the certainty and finality of mediation outcomes, and to a great extent, it eliminates possibilities for filing litigation that is based on disputing the settlements in a frivolous or dilatory manner.

3.3. Practical and Legal Challenges Impacting Enforcement

Though supported by a robust legislative framework, enforcement of MSAs is impeded by the several challenges:

- Incompletely Standard Mediator Qualification and Training: The effectiveness of mediation is largely dependent on mediators' competence and compliance with professional ethics. The inconsistency in accreditation and training may lead to a low-quality of the settlements and low quality for enforcement.
- Resistance from Judiciary and Practitioners: Even though the Act provides for enforceability, courts and some legal practitioners might be reluctant to recognise MSAs as carrying equal weight to court decrees; hence, they may show a lack of deference to MSAs, especially during the first phases of their implementation.
- Lack of Information and Trust by the Public: A great number of disputants are not aware

that mediation settlements have the power to be enforced and thus they don't trust mediation. This resolution.

- Limited Availability of Facilities: Although the MCI has made provisions for electronic storage and access systems, they are still in the early stages and may not be fully operational throughout the country, thus access to enforcement is affected.
- Complexity of the Dispute Subject Matter: Cases that involve multiple parties, cross-border factors, or that are non-mediable may sometimes cause enforcement to be unclear, thereby resulting in legal ambiguities.
- Procedural Ambiguities: The lack of detailed procedural rules for enforcement processes in certain areas results in inconsistencies and delays.

3.4. Practical, Legal, and Institutional Obstacles Affecting Enforcement

As an institution, the Mediation Council of India is a vital player in the regulation of enforcement standards; however, it is only gradually becoming fully operational. Problems such as differences in local mediation facilities, uneven standards for mediators, and limited public awareness, which impede enforcement, have been exacerbated by the council's insufficient outreach. From a legal point of view, the limited scope for contesting MSAs serves to protect their finality but at the same time poses a difficult judicial balancing act - between respecting settlements and protecting against, situations of malpractice or coercion. On a practical level, there are difficulties in settlement execution in areas where ADR methods are not strong and where there is lack of legal infrastructure, predominantly in rural areas. These problems point to the necessity of continued efforts in terms of policy, training, and infrastructure if mediation settlements are to become truly effective, legally binding, and efficiently enforceable means of dispute resolution.

Chapter Four: Role and Efficacy of the Mediation Council of India

Mediation Council of India (MCI), established by the Mediation Act, 2023, is the central regulatory and promotional body. This chapter explains its person-power, jurisdiction, and major activities, analyzes its performance of the Act's requirements, and determines its effectiveness in propagating mediation as a trustworthy and widely used method of dispute resolution in India.

4.1. Composition, powers, and functions of the Mediation Council of India

The Council is a body set up by the Central Government made up of.

- The Chairperson who is a person of their law or alternative dispute resolution (ADR) expertise is appointed.
- Two full-time members with their background in mediation, judicial services, or legal practice.
- Ex-officio members, including the representatives of the ministry of law and justice and the other related departments
- One part-time member, who may be a university professor or an expert in a particular field.
- The Council's composition is a mix of legal, regulatory, academic, and administrative expertise that is necessary to effectively govern national standards and policies of mediation.

Powers and Functions of the MCI.

The Act confers on the MCI a range of authoritative, developmental, and regulatory functions, of which the following are the chief ones:

1. Accreditation and Certification: The MCI grants accreditation and certification to both mediators and institutions involved in mediation so as to ensure professionalism and the observance of ethical standards throughout the country.
2. Regulation and Standard-Setting: The organization regulates ordinances for the conduct of a mediator, sets rules for procedures, and operational norms for mediation centers by including online platforms.
3. Promotion and Awareness: The Council is a catalyst for mediation through public participation, training courses, capacity building, and collaborations with courts, legal associations, and academic institutions.

4. Maintenance of Records: It runs an electronic archive of mediation sessions and settlement agreements which provides the basis for implementation and transparency and at the same time confidentiality is protected.
5. International Cooperation: The MCI presents India at worldwide ADR forums and makes cross-border mediation easy by being in line with international treaties such as the Singapore Convention
6. Advisory Role: It provides policy-related advice to the government regarding mediation reforms and the integration of this practice with judicial and legal frameworks.

4.2. Role in Accreditation, Regulation, Standard-Setting, and Promoting Mediation

The MCI is instrumental in creating a professional mediation environment by:

- Defining common standards for accreditation so as not to have a difference in the quality of mediators in various areas.
- Maintaining ethical standards and punishments to uphold the sanctity of mediation services.
- Facilitating the digital mediation system, which is very important in a large and geographically diverse country like India.
- Implementing large-scale training and publicity campaigns, especially through the involvement of litigants and legal professionals, to increase the willingness and usage of mediation.
- The MCI through quality standardization and accessibility improvement works towards making mediation a reliable alternative to court.

4.3. Assessment of MCI's Effectiveness in Implementing the Act

After a long time, MCI is successful in laying down the basic rules and starting the accreditation process. However, a number of challenges are left including:

- Operationalization Delays: Full staffing, regional presence across the country, and

development of infrastructure is still ongoing.

- Uniform Accreditation: Guaranteeing consistent standards of mediator certification throughout India remains a project with some regional variations still existing.
- Awareness and Adoption: Although the uptake by the legal community is increasing, the public is still in the dark about the enforceability of mediation and its benefits.
- Digital Infrastructure: The creation of online mediation platforms is underway, but they require further development in terms of integration and user-friendliness.
- International Engagement: Being able to recognize cross-border mediation under global frameworks has shown some progress and is still in its early stages.

4.4. Effectiveness in Promoting Mediation as a Reliable Resolution Method

The MCI's effectiveness is mirrored in:

- Higher numbers of cases referred to mediation by courts and tribunals, and recognition of mediation agreements as enforceable legal instruments.
- Increased numbers of mediator accreditations and training sessions, thereby improving the quality and trust of the mediation process.
- Collaborative projects with law schools and professional bodies that facilitate the integration of mediation into legal education and practice.
- Advocacy and public engagement that slowly bring about a cooperative legal culture, which is more in line with amicable dispute resolution.

Chapter Five: Conclusion and Recommendations

5.1. Summary of Findings on Legality, Enforcement, and Regulatory Performance

The Mediation Act, 2023 is a landmark legislative move that materially changed the legal landscape for mediation in India by formally recognizing it as one of the mainstream dispute resolution methods. The major accomplishment of this legislation is the recognition of the mediated settlement agreements (MSAs) as court decrees with enforceable legal power, thus

providing more finality and security to the disputing parties. Section 27 allows for quick enforcement while Section 28 restricts the grounds and times for challenging a settlement, both aspects being very important for the facilitation of a significant decrease in delay in cases. Nonetheless, hurdles of a practical and legal nature still stand in the way. There are still delays in the implementation of the enforcement process because of procedural uncertainties and the limited judicial knowledge about the enforcement of mediation. The act provides that enforcement of cross-border mediation is not allowed, thus limiting the use of the same in international commercial disputes. Besides, the institution-related issues slow down the progress as well: although the Mediation Council of India (MCI) is authorized to regulate the mediators and encourage mediation, it is still in its initial phase and there is uneven mediator accreditation as well as certain shortcomings with regard to the digital infrastructure in that. The levels of public and professional awareness about the provisions of the Act and the benefits of mediation are still quite low in some areas.

5.2. Policy and Legal Recommendations

1. Enhance Enforcement Efficiency:

Clarify the procedural rules for the quick execution of MSAs thus reducing the need for civil procedural litigations. Enlighten judiciary and enforcement agencies through training on handling MSAs as their priority so that they can assure compliance on time. Create specialized benches for the enforcement of mediation settlements or establish a fast-track mechanism to run them smoothly.

2. Enable Cross-Border Enforcement:

Change the provisions of the Act that include local court requirements in implementing foreign mediated settlements in harmony with the Singapore Convention to facilitate India's cross-border commercial litigation and ADR needs which are on the rise.

3. Strengthen Mediator Accreditation and Training:

Create a single, strict, national standard of accreditation under the MCI for mediators so as to guarantee their quality and ethical behavior. Enforce professional development and periodic re-certification as well. Add more topics to the training programs such as diversity, sensitivity to the power and digital mediation techniques.

4. Upgrade Institutional Capacity and Digital Infrastructure:

Complete the transformation of the MCI with the regional centers to be fully functional and available for more people and proper supervision. Also, invest in a strong, easy-to-use online mediation platform and build a transparent electronic settlement registry. Involve legal education institutions in training through curriculum integration of mediation methodologies

5. Amplify Public and Professional Awareness:

Implement awareness programs all over the country that highlight mediations as binding and beneficial. Take the leadership of the courts, bar associations, and corporate sectors together with civil society to advocate for the change of the cultural attitudes towards the acceptance of mediation.

5.3. Future Prospects for Mediation in India and Transformative Potential of the Mediation Act, 2023

The Mediation Act provides a strong basis for changing India's dispute resolution system by shifting focus from confrontational court cases to negotiated settlements. If the reforms that have been identified are implemented effectively, mediation can have the effect of substantially diminishing the judicial backlogs, reducing the costs of dispute resolution, and promoting the development of a cooperative legal culture. The functioning Mediation Council of India is a central body that upholds professional standards, oversees practice, and promotes innovation in ADR, including online and community mediation. Combining quality oversight with statutory enforceability, India is set to be a worldwide hub of mediation, thus, cross-border disputes will be attracted and international ADR standards will be followed. The Act's effectiveness is going to be majorly dependent on sustained political will building up institutional capacity, support from the judiciary and acceptance by the society. By taking steps to current enforcement challenges and opening up regulatory gaps, the Act will be able to realize its full potential, thus, making mediation not only a mainstream, but also a trusted and efficient mechanism that will promote access to justice and increase economic efficiency in India.

5.4. Conclusion

This research focuses on the profound changes brought about by the Mediation Act, 2023 concerning the legal status and mechanisms for the enforcement of mediation settlements in India. The Act formalizes mediation as the number one alternative dispute resolution method for civil and commercial cases by imposing the requirement of a prior attempt at mediation before filing a lawsuit and giving the status of court decrees to MSAs. The establishment of the Mediation Council of India (MCI) guarantees accreditation of professionals, regulation of ethics, and vigorous promotion of mediation services all over the country. Despite these improvements, there are difficulties with implementation. Uniform accreditation of mediators is not very good judges and the public are not very much aware of the enforceability and advantages of mediation; and the digital infrastructure for online mediation and enforcement is at a very early stage. Moreover, the Act's non-inclusion of cross-border enforcement hampers its reach in international trade disputes. Procedural issues, lack of knowledge by the judiciary, and shortage of institutional resources hinder the smooth enforcement of MSAs. The MCI as an entity in charge of accreditation, regulatory supervision, capacity building, and promotion, is still in its early days. Its success in establishing mediation as a reliable method depends on accreditation standards, public and professional awareness, facilitation of digital platform use, and collaboration at the international level. Clarifications in enforcement procedures to make the process more swift, an enabling provision for cross-border settlement enforcement in line with the Singapore Convention, strict and consistent training and certification of mediators, and strengthening the MCI operational and outreach capacity are among the recommendations. The Mediation Act, 2023 has the potential to radically change India's dispute resolution regime landscape towards quicker, less expensive, and more satisfactory solutions to the parties concerned if the policy, institutional, and procedural changes recommendations are put into effect. Apart from reducing the load of cases to the courts, it will foster the growth of a legal culture of cooperation and bring India in line with the global ADR practice standards, thus turning it into a jurisdiction attractive both for mediation and cross-border commercial transactions.