

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

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AWARENESS OF MEDIATION LAW AMONG LAW STUDENTS: WITH SPECIAL REFERENCE TO THE MEDIATION ACT, 2023

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Introduction

Conflict and disputes are intrinsic to human interaction, and the role of law has always been to provide mechanisms for their fair and peaceful resolution. Traditionally, litigation — the process of adjudication through courts — has been the dominant method of dispute resolution in India. However, over the decades, it has become increasingly evident that litigation is time-consuming, expensive, and often incapable of addressing the emotional and relational dimensions of disputes.

In response, the global legal community has embraced **Alternative Dispute Resolution (ADR)** mechanisms such as arbitration, conciliation, negotiation, and mediation. Among these, **mediation** has gained prominence for its efficiency, flexibility, and focus on mutual understanding. Mediation promotes a cooperative approach, emphasizing settlement through dialogue rather than confrontation.

In India, the concept of mediation is not entirely new. Traditional community-based dispute resolution practices, such as *panchayats* and local mediators, have long been a part of Indian culture. Yet, in the modern legal context, mediation's formal recognition and institutionalization were gradual. Prior to 2023, mediation existed in fragmented form across various statutes and judicial initiatives. The absence of a unified law created ambiguity regarding its procedure, enforceability, and professional framework.

This changed with the enactment of **The Mediation Act, 2023**, which provides India's first comprehensive legislation dedicated to mediation. It aims to institutionalize the process, encourage pre-litigation mediation, and make mediated settlements legally binding.

However, the effective implementation of the Mediation Act depends not only on the legal

community's willingness but also on the awareness and understanding among **law students** — the future advocates, judges, and mediators. This paper examines the level of awareness of mediation law among law students, its significance in legal education, and the challenges in fostering a mediation-oriented mindset.

Concept and Legal Framework of Mediation

Concept and Principles of Mediation

Mediation is a **voluntary, confidential, and structured negotiation process** in which an impartial mediator assists disputing parties in reaching a mutually satisfactory settlement. Unlike a judge or arbitrator, the mediator does not decide the case but facilitates communication and helps identify interests underlying the dispute.

The fundamental principles of mediation are:

- 1. Voluntariness:** Participation is by consent; parties may withdraw at any stage.
- 2. Confidentiality:** Discussions, documents, and proposals made during mediation cannot be disclosed in subsequent proceedings.
- 3. Neutrality and Impartiality:** The mediator must act without bias or vested interest.
- 4. Self-Determination:** Parties retain control over both the process and outcome.
- 5. Good Faith Participation:** Parties must engage sincerely and cooperatively.

These principles align mediation with restorative and participatory forms of justice, focusing on repairing relationships and achieving satisfaction for all involved.

Pre-Legislative Framework in India

Before the enactment of the Mediation Act, mediation found limited mention across various statutes and judicial guidelines:

- **Section 89 of the Code of Civil Procedure (CPC), 1908:** Empowered courts to refer disputes to mediation, conciliation, arbitration, or Lok Adalat.
- **The Arbitration and Conciliation Act, 1996:** Contained provisions for conciliation (Part III), which closely resembled mediation.
- **Industrial Disputes Act, 1947:** Provided for mediation by labor officers in industrial conflicts.
- **Family Courts Act, 1984:** Encouraged conciliation and settlement in matrimonial disputes.

Judicial initiatives, notably the **Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010)** case, provided clarity on when courts may refer matters to mediation. High Courts

subsequently established **court-annexed mediation centers**, such as the Delhi High Court Mediation and Conciliation Centre (Samadhan), which played a pivotal role in promoting mediation as an alternative to litigation.

Despite these efforts, mediation remained largely ad hoc and dependent on judicial encouragement. There was no uniform training, accreditation, or clear statutory enforceability for mediated settlements.

The Mediation Act, 2023

The **Mediation Act, 2023**, passed by the Indian Parliament, represents a landmark reform aimed at institutionalizing and promoting mediation in India.

Objectives of the Act

- To provide a comprehensive legal framework for mediation.
- To encourage pre-litigation mediation and reduce the burden on courts.
- To ensure enforceability and confidentiality of mediated settlements.
- To promote professional standards and regulation through the **Mediation Council of India (MCI)**.

Salient Features

1. **Scope:** Applies to domestic and certain international mediations conducted in India.
2. **Pre-Litigation Mediation:** Parties must first attempt mediation before filing civil or commercial cases.
3. **Institutional Mediation:** Encourages mediation through recognized mediation service providers.
4. **Mediation Council of India (MCI):** Established to regulate and promote mediation institutions, accreditation, and standards.
5. **Community Mediation:** Allows local-level mediation to resolve community disputes amicably.
6. **Online Mediation:** Legally recognizes virtual mediation sessions using digital platforms.
7. **Enforceability:** Mediated settlement agreements are deemed **decrees of a court** and are legally enforceable.
8. **Confidentiality and Privilege:** Communications during mediation are protected and cannot be used in other proceedings.

This legislation has transformed mediation from a voluntary, informal practice into a structured legal process, aligning India with global best practices.

Importance of Mediation Education in the Law Curriculum

The Role of Legal Education

Legal education is not merely about learning statutes and precedents; it is about cultivating legal reasoning, ethical values, and practical skills. As India transitions toward a more ADR-oriented legal system, law schools must equip students with the competencies necessary to participate effectively in mediation.

The **Bar Council of India (BCI)** introduced ADR as a compulsory paper in the LL.B. program under the *Rules of Legal Education, 2008*. However, most law schools focus on arbitration and conciliation, with mediation receiving minimal attention. The enactment of the Mediation Act, 2023, demands that this imbalance be corrected.

Advantages of Mediation Education

- **Skill Development:** Students learn active listening, empathy, negotiation, and problem-solving — essential for both litigation and non-litigation careers.
- **Ethical and Professional Growth:** Mediation encourages cooperative advocacy and understanding of justice beyond winning cases.
- **Career Diversification:** The Mediation Act opens professional avenues as accredited mediators, institutional administrators, and policy advisors.
- **Global Relevance:** Mediation is a preferred mode of dispute resolution in international trade and commercial law. Familiarity with mediation enhances employability globally.

Integration into Curriculum

A robust mediation curriculum should include:

- Theoretical understanding of mediation and the Mediation Act, 2023.
- Practical components — role plays, simulated mediations, and internships.
- Collaboration with court mediation centers and legal aid clinics.
- Elective courses focusing on negotiation, conflict management, and psychology of dispute resolution.

Law schools such as NLSIU (Bangalore), NALSAR (Hyderabad), and NUJS (Kolkata) have already incorporated ADR clinics and competitions. However, most regional colleges still lack structured mediation training.

Level of Awareness Among Law Students

General Level of Awareness

Empirical observations and surveys across various universities suggest that while a majority of law students are *aware of mediation as a concept*, their understanding of the **Mediation Act, 2023** is still limited. The Act's recent enactment and insufficient integration into coursework contribute to this gap.

Awareness tends to vary depending on the institution's location, resources, and emphasis on practical learning. National Law Universities (NLUs) exhibit higher awareness levels compared to smaller or newly established private law colleges.

Sources of Information

Law students primarily learn about mediation from:

- Classroom lectures on ADR and legal procedures.
- Internships at courts or law firms with mediation practice.
- Workshops organized by High Courts or the Mediation and Conciliation Project Committee (MCPC).
- Online legal platforms, webinars, and student competitions.

However, many students rely on secondary or theoretical knowledge without hands-on experience in actual mediation sessions.

Attitudinal Trends

Although many students appreciate mediation's benefits — cost-effectiveness, speed, and confidentiality — they often view it as a *soft alternative* rather than a professional path. The traditional prestige attached to litigation influences students' career preferences. Nonetheless, as mediation gains statutory backing and international visibility, this perception is gradually changing.

Factors Influencing Awareness

Awareness levels among law students are determined by several interrelated factors:

Curriculum Design and Institutional Policy

Institutions that include mediation simulations, clinical legal education, and ADR competitions report higher awareness. Where ADR is confined to theory, students remain unaware of practical processes and legal developments.

Faculty and Pedagogy

Professors with mediation training or practical exposure inspire greater interest and understanding among students. Conversely, lack of faculty expertise often limits meaningful discussion on mediation law.

Exposure through Internships

Students interning at mediation centers or under advocates involved in ADR gain practical insights. Exposure to **court-annexed mediation centers** helps them understand real-world applicability.

Judicial and Government Initiatives

Judicial campaigns such as the **Mediation and Conciliation Project Committee (MCPC)**, established by the Supreme Court, and government initiatives for community mediation play crucial roles in creating awareness. Collaboration between these institutions and universities can bridge the knowledge gap.

Challenges and Gaps Identified

Despite positive trends, several challenges persist in promoting mediation awareness among law students:

- 1. Insufficient Curriculum Coverage:** Many law schools have not updated their syllabi to include the Mediation Act, 2023.
- 2. Lack of Practical Exposure:** Students rarely participate in real mediation proceedings or community programs.
- 3. Cultural Resistance:** Litigation continues to dominate legal education and practice, discouraging interest in consensual resolution.
- 4. Limited Career Visibility:** Mediation as a profession is still emerging; lack of structured accreditation and remuneration discourages students.
- 5. Information Gap:** The recent nature of the Mediation Act means resources, case law, and commentaries are still developing.

Addressing these issues requires systemic reforms that involve academia, judiciary, and policymakers.

Role of Institutions and Legal Bodies

The Bar Council of India

The BCI must ensure regular revision of legal education standards to include mediation practice as a compulsory clinical component. Collaboration with the Mediation Council of India can

enhance uniformity in mediator training.

The Judiciary and the MCPC

The judiciary has historically been the driving force behind mediation. The MCPC's training programs for judges, advocates, and students are instrumental in spreading awareness. Judicial endorsement legitimizes mediation as a respected component of justice delivery.

The Mediation Council of India

Under the Mediation Act, the MCI will regulate professional standards, accredit mediators, and promote awareness programs. Partnerships with universities for student mediation training could ensure early professional development.

Universities and NGOs

Law universities should collaborate with NGOs and local mediation centers to organize *community mediation camps*. These initiatives not only spread public awareness but also provide law students with invaluable experiential learning.

Suggestions and Recommendations

To enhance mediation awareness among law students, the following measures are recommended:

- 1. Curricular Inclusion:** Integrate the Mediation Act, 2023, into ADR syllabi with detailed analysis and case discussions.
- 2. Clinical Training:** Establish mediation clinics within law schools where students can observe or participate in simulated mediations.
- 3. Internships and Exchange Programs:** Partner with court mediation centers and mediation institutions for structured internships.
- 4. Faculty Development:** Train faculty members in mediation practice and pedagogy.
- 5. Competitions and Workshops:** Encourage national-level mediation and negotiation competitions to promote skill-based learning.
- 6. Digital Learning:** Utilize online mediation simulations and platforms to reach students in remote institutions.
- 7. Research Promotion:** Encourage students to undertake empirical research on the Mediation Act's implementation and awareness levels.

Conclusion

The **Mediation Act, 2023** signifies a paradigm shift in India's justice system from adversarial litigation to cooperative dispute resolution. The law provides a robust foundation for mediation by establishing procedural uniformity, enforceability, and institutional regulation. However, legislation alone cannot ensure success; widespread **awareness and education** are equally vital.

Law students, as future legal professionals, must be equipped with both theoretical understanding and practical skills in mediation. Awareness levels today remain uneven, largely dependent on institutional initiatives. To realize the vision of a mediation-oriented legal culture, law schools, policymakers, and judicial bodies must collaborate to embed mediation deeply into legal education.

Building awareness among law students will not only strengthen the mediation ecosystem but also contribute to **a more efficient, empathetic, and accessible justice system** — the very goal that the Mediation Act, 2023, seeks to achieve.

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Findings

The study on *Awareness of Mediation Law among Law Students with special reference to the Mediation Act, 2023* yielded several important observations about students' knowledge, attitudes, and exposure to mediation as a legal process. The findings are summarized below:

1. General Awareness Exists but Is Superficial

Most law students were familiar with the term “mediation” and recognized it as a method of alternative dispute resolution. However, their understanding was largely limited to a basic or theoretical level. Few students could explain the detailed provisions, objectives, or institutional framework introduced by the Mediation Act, 2023.

2. Limited Knowledge of the Mediation Act, 2023

While students had heard about the new Act, many were unaware of its salient features such as the establishment of the Mediation Council of India, enforceability of settlement agreements, or the provision for pre-litigation mediation. This indicates that dissemination of legal updates regarding the Act within law schools is still insufficient.

3. Variation in Awareness Based on Institutional Exposure

Students from institutions that conduct ADR workshops, moot competitions, or mediation training programs displayed significantly better understanding of the mediation process compared to those from colleges where mediation is only discussed in theory. The level of institutional encouragement and resources thus plays a crucial role in shaping awareness.

4. Preference for Litigation over Mediation

Many students still view traditional litigation as the primary and more prestigious form of legal practice. Mediation is often perceived as an auxiliary or secondary process rather than an independent professional avenue. This reflects the influence of long-established adversarial traditions in Indian legal education.

5. Positive Attitude but Lack of Practical Exposure

A majority of respondents expressed openness toward mediation and acknowledged its potential benefits — such as speed, affordability, and confidentiality. Nonetheless, very few had directly observed or participated in any mediation session, either through internships or university programs. Practical exposure opportunities remain limited.

6. Influence of Curriculum and Faculty

Where faculty members actively discussed contemporary legal developments and the new Mediation Act, students demonstrated higher conceptual clarity. Conversely, in

institutions where ADR is taught only as a theoretical subject without updated material or interactive teaching, students' awareness remained minimal.

7. Need for Systematic Training

Many students expressed a desire for structured mediation training within their curriculum. They recognized that while mediation is conceptually appealing, it requires specialized skills such as negotiation, communication, and emotional intelligence — skills that are rarely emphasized in current legal education models.

8. Role of Judiciary and Media in Awareness Creation

Some students learned about mediation and the Mediation Act through newspaper articles, social media, and judicial pronouncements rather than formal academic instruction. This shows the growing public discourse around mediation but also highlights a gap in institutional education delivery.

9. Emerging Interest in Mediation as a Career

Although few students plan to pursue mediation as a full-time profession, there is growing curiosity about its career prospects. Students recognize that the Mediation Act, 2023, has created a more credible and organized structure, which may open new professional pathways in the near future.

10. Perceived Challenges in Implementation

Students expressed concern about the practical challenges in enforcing mediation outcomes, public acceptance of the process, and lack of awareness among common people. Many believed that for mediation to succeed, both the legal community and society at large must be educated about its advantages.

Summary of Findings

The overall findings indicate that law students in India possess a basic conceptual awareness of mediation but lack detailed knowledge of the **Mediation Act, 2023** and its implications. Institutional differences, limited practical training, and cultural preference for litigation are major factors influencing awareness levels. There is a clear need for stronger curriculum integration, faculty involvement, and exposure through mediation centers to bridge the gap between theoretical knowledge and practical understanding.