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COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS FOR MEDIATION IN INDIA, USA AND SINGAPORE.

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Abstract

With the increased business relationships and collaborations, both domestically and globally, business and commercial disputes have also witnessed a surge worldwide. In this regard, mediation has proven to be a potential Alternative Dispute Resolution (hereinafter, as 'ADR') mechanism for resolving and settling intricate disputes, where instead of wading through the complexities of traditional litigation procedures, parties resort to involving a neutral third-party who acts as a facilitator, assisting them to arrive at an amicable and mutually acceptable agreement.

Distinguished from other mainstream forms of ADR mechanisms, the mediation process is generally less formal, granting the parties procedural autonomy to design the dispute resolution process tailored to their specific needs and requirements. The disputing parties have control over the substantive outcome, which is the culmination of mutual negotiations driven by their respective commercial or legal interests, while the mediator, serving as a facilitator, oversees and manages other procedural aspects of the process. The parties jointly determine the settlement, the specific terms of the settlement agreement, and the mode of its enforceability.

Mediation has attained legal recognition within the domestic frameworks of nearly all countries, albeit with certain variations, mainly influenced by their historical development, legal practices, traditional and cultural norms, and prevailing societal values. Recently, India accorded statutory recognition to mediation as a distinct mode of dispute resolution by enacting the Mediation Act, 2023. The statute aims to encourage peaceful settlement, which is also cost-effective. While the enactment represents a progressive step towards expediting dispute resolution and alleviating judicial backlog, it exhibits critical shortcomings, such as the absence of standardized training, ethical guidelines, and accreditation standards for mediators, exclusion of certain disputes, limited grounds for challenging settlement agreements, lack of attention on cross-border enforcement of settlement agreements, and so on. These gaps underscore the necessity of undertaking this research ─ to examine the legal frameworks,

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practices, and procedures governing mediation across jurisdictions of the United States and Singapore, compare them with the Indian legal framework, and propose plausible legislative reforms that can be integrated into the Indian statutes to enhance the effectiveness of mediation procedures.

INTRODUCTION

In the contemporary legal landscape, mediation offers a practical alternative to formal adversarial procedure, taking the edge off the courts while providing parties with a more flexible, economic and efficient means of conflict resolution. India's reputation as a litigious society, characterized by a chronic judicial backlog, is a well-acknowledged reality. This backlog, evident across all levels of the judiciary, stems not only from structural limitations but also from a deeply ingrained cultural tendency to view litigation as the default and obvious mode of dispute resolution.

In this context, the formalization and codification of a comprehensive mediation law by India represents a conscious legislative effort to integrate alternate dispute resolution mechanisms with the traditional litigation practice, thereby positioning mediation as a mainstream mode of resolving disputes. The enactment marks a significant step toward transforming the culture of dispute resolution in India and aligning it with globally accepted practices. It seeks to institutionalize mediation and encourage settlement among parties through dialogue, mutual understanding and negotiation, diverting appropriate disputes from the courtroom to a more collaborative and less adversarial forum. In essence, by formalizing a structured framework for amicable settlement, the legislation aspires to re-orient the mind-set of disputants away from adversarial litigation and toward co-operative and collaborative, interest-based resolution.

The use of mediation is deeply rooted in India's social fabric. Its origins can be traced back to Vedic era, the ancient Indian texts and scriptures, including the Vedas, Upanishads, Arthashastra, Manusmriti, and epic narratives like the Mahabharata and Ramayana, which depict instances where mediation was resorted to as a means to settle even the kind of confrontations which appeared potentially destructive. These sources reflect India's primordial inclination towards social harmony and restorative justice. The most prevalent form of mediation in ancient India was the traditional Panchayat system wherein disputes were resolved by the Panch, a group of village elders. Even today, in certain rural and tribal regions of India, the Panchayat system continues to be employed to settle disputes.

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As the British administration began in India, the traditional mediation practices saw a decline, as formal and codified forms of ADR mechanisms were introduced. The Bengal Regulation Act of 1772 was one such codified law which formally acknowledged and governed arbitration procedures. This shift towards codified arbitration side-lined and rendered the practice of mediation peripheral to the dispute resolution mechanisms. However, after independence, India resurrected its focus on reviving and bolstering indigenous methods of resolving disputes, including mediation. Several Law Commission Reports were put forward detailing the benefits of mediation and encouraging it as a viable and expedient mode of conflict resolution. This led to various developments and initiatives that have shaped the landscape of mediation in contemporary India.

Post-colonial period, a slight glimpse of formal institutionalization of mediation within the Indian legal system can be seen in the Industrial Disputes Act, 1947, which incorporated certain statutory provisions facilitating the resolution of disputes outside the conventional courtroom setting. The enactment of Legal Services Authorities Act, 1987 and the establishment of Lok Adalats therein further augmented the traction and implementation of mediation.

Additionally, the Indian Judiciary has consistently played an active role in advancing the development of mediation. In 1996, Justice A.M. Ahmadi, the then Chief Justice of India, invited the Institute for the Study and Development of Legal System (ISDLS) to India for a national legal exchange programme between India and the USA. The programme concluded with proposal pertaining to structural and legislative reforms which were culminated in the Code of Civil Procedure (Amendment) Act, 1999 amending section 89 of the CPC, whereby mediation was recognized as one of the modes of settlement of disputes outside the court.[1] The amendment was followed by a challenge, which led to the constitution of Justice Malimath Committee and the 129th Law Commission. Their recommendation to make it obligatory for the Courts to refer the dispute, after issues are framed, for settlement through ADR mechanisms was very well taken into consideration by the Hon'ble Supreme Court in the case of **Salem Advocates Bar Association v. Union of India**[2] and this case turned out to be a landmark judgment in the development of mediation in India.

[1] History of Mediation, Mediation and Conciliation Project Committee, available at: https://mcpc.nic.in/?100013 (last visited on July 27, 2025)
[2] AIR 2005 SUPREME COURT 3353

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Mediation has also been resorted to by the Supreme Court in the historic Ayodhya Title Dispute. Although the effort did not culminate in a comprehensive settlement, the Court's decision to refer the matter to mediation speaks volumes about the judiciary's evolving inclination towards non-adversarial mechanisms of dispute resolution, and also highlights mediation's transformative potential in addressing even the deeply entrenched conflicts.

Through cases such as **Afcons Infrastructure Ltd v. Cherian Varkey Construction Co. (P) Ltd**[3] and **Patil Automation Private Limited & Ors. v. Rakheja Engineers Pvt Ltd.,**[4] the Supreme Court and various High Courts have also emphasized the importance of pre-litigation mediation. There are, in fact, various instances where courts have played an active role in mandatorily requiring the parties to appear before mediators.

Furthermore, a range of governmental and non-governmental, organizations, institutions and centres have been established across the country to promote and facilitate mediation services across diverse domains, including commercial disputes, family matters, labour disputes, and community conflicts. Some notable institutions include the Mediation and Conciliation Project Committee (MCPC), the Indian Council of Arbitration (ICA), and the International Center for Alternative Dispute Resolution (ICADR).

Outlined below is a concise tabulated overview of some selected statutory provisions in India which acknowledge mediation and provide mechanism enabling parties to engage in the process. It is noteworthy that prior to the passage of the Mediation Act, 2023, the legal provisions pertaining to mediation existed in a dispersed and fragmented manner across diverse legislations, reflecting absence of procedural uniformity for mediation.

S.No.	Legal provision	Provision summary
1.	S.89 and Order X Rule 1A, 1B, 1C, CPC: court-referred mediation	The courts can refer the parties to arbitration, mediation, Lok Adalat, judicial settlement, if they perceive the possibility of settlement.
2.	Arbitration and	This Act does not specifically talk about mediation, but gives

[3] (2010) 8 SCC 24
[4] 2022 SCC OnLine SC 1028

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	Conciliation Act, 1996 (A&C Act)	Arbitral Tribunal[5] and the Arbitration Council of India[6] the power to use mediation as a means to encourage settlement.
3.	S.442, The Companies Act, 2013	Empowers the Central Government, NCLT and NCLAT to refer parties for mediation.
4.	S.12A, Commercial Courts Act, 2015	Introduction of mandatory pre-institution mediation in commercial disputes, preceding the institution of formal litigation procedure.
5.	S.37 and Ch.V, Consumer Protection Act, 2019	This special legislation, aimed at safeguarding consumers' interests, formally recognizes mediation as a mechanism to settle dispute between opposing parties, and empowers the District Commission to direct the parties for mediation where elements of settlement are discernible.
6.	Mediation Act, 2023	This newly enacted legislation formally recognizes mediation in India, laying down a framework for its conduct, and promoting mediation as a preliminary step, prior to the initiation of formal litigation proceedings.

The above table clearly reflects upon the Legislature's consistent and affirmative efforts to give due recognition and encouragement to mediation as a legitimate mode of dispute resolution.

THE MEDIATION ACT, 2023: A CRITICAL OVERVIEW

The Mediation Act (hereinafter as, "the Act") is a monumental step in India's efforts to concretize mediation as a credible and peaceful dispute resolution mechanism, emphasizing cost-effective and timely resolution through institutional, online and community mediation. The statute also provides for the establishment of the Mediation Council of India to oversee and govern the mediation framework and includes provisions for the enforcement of mediated settlement agreements.

Some key features, inter alia, of the Act can be summarized as follows:

- **Encompassing 'conciliation' within 'mediation'.** While defining mediation, the Act includes within its scope pre-litigation mediation, online mediation, community

[5] Section 30, The Arbitration and Conciliation Act, 1996
[6] Section 43D, The Arbitration and Conciliation Act, 1996

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mediation, conciliation or other processes of similar nature. The definition, thus, effectively collapses the traditional distinction between mediation and conciliation, in consonance with the international practice[7], and mirroring the interpretative approach previously adopted by the Supreme Court[8]. The Act displaces the existing conciliation framework under Part III of the A&C Act[9], thereby rendering that Part redundant.

- **Applicability.** Section 2 of the Act carves out the applicability in cases where
  i) All the parties are residents of India or are incorporated therein, or
  ii) The mediation agreement expressly stipulates the application of this Act, or
  iii) There is an international mediation, or
  iv) The Central or State Government is a party to a commercial dispute, or
  v) In respect of any other kind of dispute, the Central or State Government, being a party, deems it appropriate and notifies to that effect.
- **Matters not fit for resolution by mediation.** Section 6 read with First Schedule of the Act, enumerates several matters which are excluded from the scope of mediation. These include, inter alia:
  - **Matters involving claims against minors, deities, persons with intellectual disabilities or having high support needs, persons with mental illness, and persons of unsound mind.** It is noteworthy that, as previously mentioned, mediation was in fact resorted to by the Apex Court in a matter as complex as the Ayodhya title dispute. The case demonstrated judiciary's progressive outlook, particularly given that the deity (Ram Lalla) was a party to the dispute. In contrast, the legislative exclusion of such matters appears somewhat regressive and arguably undermines the potential of mediation, an approach that has been explicitly endorsed by the judiciary as a viable and effective dispute resolution mechanism.
  - **Disputes involving legal, medical, architectural, and accounting professionals**, particularly where issues pertain to registration, disciplinary proceedings or professional misconduct before any statutory authority. Notably,

[7] Convention Text, Singapore Convention on Mediation, available at: https://www.singaporeconvention.org/convention/text#:~:text=the%20United%20Nations.-,1,be%20enforced%20under%20the%20SCM (last visited on August 1, 2025)
[8] Afcons Infrastructure Ltd. v. M/s Cherian Varkey Construction Co. Pvt. Ltd, (2010) 8 SCC 24
[9] Section 61 read with the Sixth Schedule of the Mediation Act, 2023

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many of these disputes may involve elements of tortious liability, such as negligence, which are, in principle, amenable to resolution through mediation.[10]

- **Proceedings before NGT, TRAI, SEBI, or under Competition Act, 2002, Electricity Act, 2003, Petroleum and Natural Gas Regulatory Board Act, 2006, laws pertaining to land acquisition, or matters involving direct or indirect taxation or refunds.** The anticipated surge in disputes in these domains renders their legislative exclusion from mediation absurd and insufficiently justified, particularly when the global practices increasingly favour such resolution mechanisms for resolving complex regulatory and sector-specific disputes.

Furthermore, Section 55, read with Second Schedule, enlists legislations which have an over-riding effect on the Mediation Act. This list includes statutes, inter alia, the Industrial Disputes Act, 1947, the Family Courts Act, 1984, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Given the inherent sensitivity of the subject-matter dealt by these legislations, where effective communication, amicable conciliation, and mediation could infact play a constructive role, their deliberate exclusion from the Act's scope appears ill-conceived and bereft of a cogent justification.

- **Mediation Agreement.** The Act requires a mediation agreement to be in writing, whether as a separate instrument, a clause therein, or even a mere reference within an instrument, and permits its execution even subsequent to the arising of the dispute.[11]
- **Interim orders by the Court or Tribunal.** The Act empowers the court or tribunal to pass any "suitable interim order" for the protection of a party's interests.[12] This stands in contrast to the Arbitration and Conciliation Act, 1996, which prescribes a clear category of permissible interim orders. Leaving the contours of "suitability" entirely upon judicial interpretation creates scope for potential overreach, which may lead to inconsistent applications, and undermine the principles of justice, fairness and reasonableness.

[10] Laila Ollapally, "Mediation finds its place in India: Benefits and pitfalls of the Mediation Bill, 2023", Bar and Bench, available at: https://www.barandbench.com/columns/mediation-finds-its-place (last visited on August 20, 2025)
[11] Section 4, The Mediation Act, 2023
[12] Section 7(2), The Mediation Act, 2023

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- **Pre-Litigation Mediation.** Unlike litigation or arbitration, which culminates in adjudication, mediation is a consensual and party-friendly dispute settlement approach. While earlier draft Bills sought to make pre-litigation mandatory, the Act makes it voluntary in civil and commercial disputes, subject to the mandate created by Section 12A of the Commercial Courts Act, 2015[13] under which pre-litigation is compulsory in commercial disputes of Specified Value.[14] This dual framework reflects upon the legislative attempt to strike a balance between promoting mandatory dispute resolution in certain cases and preserving party autonomy, in other cases, in deciding whether to submit to the process.

  Although voluntariness constitutes the essence of mediation, making pre-litigation mediation mandatory may serve the purpose of increased participation, increased out-of-court settlements, reduced backlog on courts and acquainting litigants with the process. Considering the nascence of the process in India, such a mandate can be viewed as a catalyst for mainstreaming mediation, rather than viewing it as an erosion of its essence.

  Comparative insights may be drawn from jurisdictions such as Italy, Turkey and Brazil where pre-litigation mediation is made mandatory, coupled with an opt-out option to parties. The Italian model also prescribes minimal mediation fee and imposes sanctions on the parties who fail to attend the initial mediation session. This blend of incentives and sanctions has not only significantly strengthened mediation process in Italy, but has also contributed in the alleviation of judicial burden.[15]

- **Conflict of interest and disclosure.** Prior to the commencement of mediation proceedings, the Act obligates the proposed mediator to make a written disclosure to the parties of any circumstance, personal, professional, financial, or otherwise, that may constitute any conflict of interest or that is likely to give rise to justifiable doubts as to his independence or impartiality.[16] This disclosure standard is in line with the international practices laid down under UNCITRAL Model Laws[17] and the

[13] Read with Commercial Courts (Pre-institution Mediation and Settlement) Rules, 2018
[14] Section 5, The Mediation Act, 2023
[15] "Designing the Future of Dispute Resolution: The ODR Policy Plan for India", NITI Aayog Expert Committee on ODR, October 2021, available at: https://www.niti.gov.in/sites/default/files/2021-11/odr-report-29-11-2021.pdf (last visited on August 30, 2025)
[16] Section 10, The Mediation Act, 2023
[17] Article 12, UNCITRAL Model Law on International Commercial Arbitration (1985)

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International Bar Association (IBA) Guidelines on Conflict of Interest in International Arbitration[18].

In contrast, the Arbitration and Conciliation Act, 1996 adopts a more detailed framework in this regard, wherein its Fifth Schedule[19] enumerates an elaborative list of grounds which act as guiding principles in determining whether circumstances exist which give rise to justifiable doubts as to the independence or impartiality of an arbitrator.

The broad disclosure obligations in mediation, unlike the detailed grounds prescribed by arbitration, reflect its inherently facilitative, non-adversarial and party-driven character. Mediation relies on party autonomy and mutual trust, which arguably reduces the need for the codified safeguards. However practically speaking, the absence of a structured criterion may create ambiguity regarding what requires disclosure, leaving room for inconsistent application and potentially undermining the very confidence, the disclosure requirement seeks to ensure.

- **Challenging an MSA.** The Act provides four limited grounds for challenging a mediated settlement agreement (MSA), i.e., fraud, corruption, impersonation and where mediation is conducted in matters excluded by Section 6.[20] Although such restrictions provide certainty to some extent, they simultaneously exclude several legitimate grounds such as incapacity of parties, misrepresentation, coercion, duress, mistake, unenforceable subject-matter, conflict with public policy or a court order, among others. This omission may leave scope for (a) misuse by recalcitrant parties seeking to evade compliance, and (b) excessive judicial expansion that might blur the intended legislative boundaries, and defeat the very purpose of the Act.
- **Non-settlement Report.** Where the parties fail to reach an agreement within the prescribed time period, or where, in the opinion of the mediator, no settlement is possible, the mediator is required to submit a non-settlement report to the parties, and in case of an institutional mediation, to the Mediation Service Provider. The statute further mandates the report to be confidential, i.e., it shall not disclose reasons for non-settlement or any information pertaining to the conduct of the parties during the mediation.[21]

[18] Part I (2) Conflict of Interest, IBA Guidelines on Conflict of Interest in International Arbitration (2014).
[19] Read with Explanation 1 to Section 12 (1) of the Arbitration and Conciliation Act, 1996
[20] Section 28(2), The Mediation Act, 2023
[21] Section 21, The Mediation Act, 2023

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By preserving confidentiality even in the event of non-settlement, the provision reflects a progressive legislative stance to strengthen party's confidence in mediation and to reinforce the procedure as a safe space for candid dialogue ensuring that the parties can engage openly, without the apprehensions that their statements or conduct might later be used adversely against them. It also prevents the stigmatization of non-settlement as a failure, recognizing the absence of a settlement agreement as a plausible and appropriate- outcome of the process, instead of considering it as a procedural deficiency. Furthermore, the Act underscores the value of maintaining integrity of the mediation process itself over outcome, aligning with international best practices that regard confidentiality as the cornerstone of effective alternative dispute resolution.

THE MEDIATION ACT, 2023 (INDIA) AND THE MEDIATION ACT, 2017 (SINGAPORE): A COMPARATIVE ANALYSIS

This segment analyses and distinguishes certain key provisions of the Mediation Act of Singapore (hereinafter, "the Act of 2017") and the Mediation Act of India (hereinafter, "the Act of 2023"):

(1) Defining Mediation: The Act of 2017 defines mediation as a "process comprising one or more sessions in which one or more mediators assist the parties to a dispute to do all or any of the following with a view to facilitating the resolution of the whole or part of the dispute: (a) identify the issues in dispute; (b) explore and generate options; (c) communicate with one another; (d) voluntarily reach an agreement."[22]

On the other hand, the Act of 2023 defines mediation as 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 referred to as mediator, who does not have the authority to impose a settlement upon the parties to the dispute."[23]

A point to note here is that while the former enactment adopts a more process-oriented definition, the latter statute embraces a definition that is more expansive, which is explicit by use of words pre-litigation mediation, online mediation, community

[22] Section 3, Mediation Act, 2017
[23] Section 3(h), The Mediation Act, 2023

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mediation, conciliation, as well as "expressions of similar import." The Indian definition blurs the traditional conceptual distinction between mediation and conciliation, and sweeps varied forms of consensual dispute resolution mechanisms under a single umbrella. Thus, in terms of definition, India's Mediation Act seems to be broader than its Singapore counterpart.

It is also pertinent to note that the Singapore's Act does not expressly recognize the varied forms of mediation as done by the Indian statute. In this regard, the former statute seems to take a more traditional approach, in contrast to the latter statute which is significantly broader and inclusive in nature.

(2) Confidentiality: Both the enactments underscore confidentiality as a cornerstone of the mediation process, yet they differ with respect to their ambit.

Section 22 of the India's Mediation Act stipulates that all matters relating to the mediation proceedings, including acknowledgements, opinions, suggestions, promises, proposals, apologies, admissions, documents, or any sort of mediation communication made during the mediation shall be kept confidential, and shall be inadmissible in evidence in any proceeding before any court of law, including arbitral tribunal. This obligation is imposed by the statute upon the mediator, mediation service provider, parties and participants, experts, advisers and persons involved in the process of mediation.[24]

Sections 9 to 11 of the Singapore's Mediation Act put sufficient restrictions in order to prevent disclosure of any information communicated during the mediation proceeding, subject to certain exceptions, inter alia, consent of the parties, or where it is necessary to prevent or minimize danger of injury or of a crime.

With respect to confidentiality, the Indian statute offers a wider ambit, as it expressly subsumes multiple participants and multiple categories of information and brings them under a single roof. In contrast, the Singapore Act adopts a more functional and pragmatic approach which is clearly evident from its specifically enumerated exceptions. The Indian legislation though broader and more protective in nature, leaves room for interpretation, whereas the Singapore approach offers sharper clarity through its express statutory exclusions.

[24] Section 23, The Mediation Act, 2023

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(3) Enforceability of mediated settlement agreements (MSAs): An MSA resulting from mediation, duly signed by the parties and authenticated by the mediator(s) has been accorded the same status as a decree of a civil court, for the purpose of enforcement.[25] However, it is subject to certain exceptions, as already discussed earlier.[26] By conferring the status of a decree, the legislation eases the enforceability of the MSAs while simultaneously ensuring their finality and binding character.

The Singapore's legislation requires the parties to apply to the court to record the agreement as an order of court[27], subject to certain conditions as mentioned in sub-sections (2), (3) and (4) of the provision. Upon recording so, it may be enforced in the same manner as a judgment or order of a court.

Unlike India, enforceability of an MSA under Singapore legislation is not automatic, and requires judicial intervention to accord it the status of a court order. Nevertheless, India's relative simplicity of enforcement operates primarily within domestic boundaries. Conversely, the Singapore model, though procedurally more layered, is better aligned with international standards, enabling enforcement of cross-border MSAs convenient and smoother – an aspect currently absent from the Indian framework.

(4) Cross-border enforcement of MSAs: Singapore's mediation framework is strategically designed to facilitate cross-border enforceability of international commercial MSAs. As one of the first States to ratify the United Nations Convention on International Settlement Agreements Resulting from Mediation (the 'Singapore Convention'), Singapore complements this commitment by tailoring the Convention into its domestic legal framework, thereby effectively bridging the international recognition and domestic enforceability.

By contrast, India has merely signed the Singapore Convention[28] and is yet to ratify or implement it. Consequently, there exists no effective, treaty-based mechanism for direct cross-border enforcement of MSAs. Cross-border enforceability, therefore, remains uncertain and contingent upon foreign law or bilateral arrangements.

[25] Section 27-29, the Mediation Act, 2023
[26] Supra note 20
[27] Section 12, the Mediation Act, 2017
[28] "Jurisdictions", Singapore Convention on Mediation, available at: https://www.singaporeconvention.org/jurisdictions (last visited on September 17, 2025)

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(5) Regulatory Framework for Institutional Standards: The Indian legislation by virtue of Chapter VIII (sections 31 to 39) creates a regulatory body, i.e., Mediation Council of India (MCI) which is empowered to lay down standards prescribing professional and ethical norms, qualifications, training requirements and programmes, accreditation standards, assessment guidelines, etc., for the mediators, mediation service providers and mediation institutions. This reflects the legislative intent to professionalise and institutionalise mediation practice; however, the Act's practical efficacy remains largely contingent upon the timelines of the delegated legislation for its effective implementation.

Talking about Singapore model, the Act of 2017 does not in itself create any regulatory body or prescribe accreditation, qualifications or ethical standards for mediators. Instead, it sits on a pre-existing and developed institutional eco-system, led by recognized and established mediation institutions, primarily by the Singapore International Mediation Centre (SIMC), the Singapore Mediation Centre (SMC) and the Singapore International Mediation Institute (SIMI). These institutions actively run mediator accreditation and training programmes, establish ethical and professional standards and guidelines regarding code of conduct, and maintain a structured tiered accreditation framework, among the other needful requirements.

Analysing comparatively, the Singaporean framework is institution-driven, whereas the Indian approach primarily relies on statutory regulation. The apparent silence of the Singaporean Act may be attributed to the existence of a decentralised yet well-established institutional framework that governs accreditation and standards relating to practices of mediation, obviating the need for legislative reiteration. Thus, Singapore's model, though less legislatively prescriptive, benefits from its strong institutional credibility and international reputation.

A CALIBRATED CONCLUSION: INDIA AND SINGAPORE

A holistic comparison of the Indian Mediation Act, 2023 and the Singapore Mediation Act, 2017 embody two divergent pathways for mediation governance to the same objective–the promotion of mediation as a credible, enforceable, and preferred mode of dispute resolution.

India's statute is nascent yet transformative; it symbolizes a legislative attempt to consolidate, systematize and mainstream mediation, and embed it within its formal dispute resolution mechanism through a comprehensive code. Its expansive approach is evident in its inclusion of the diverse forms of mediation, including but not limited to, community mediation, pre-

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litigation mediation, online mediation, mandatory time-bound procedures, the subsumption of conciliation, along with the establishment of the Mediation Council of India (MCI) to regulate accreditation and practice standards – a regulatory structure focusing primarily on scaling mediation within domestic arena. However, the realisation of the objectives which the legislation seeks to achieve hinges on the operation efficiency of the Council, subordinate rule-making, and strengthening of institutional infrastructure.

In contrast, the Singapore legislation is structurally narrower but rests upon a well-developed and practically functional ecosystem comprising mediation institutions, accreditation bodies, and internationally recognised practice standards. The Act primarily focuses on the enforceability and confidentiality of mediation processes, leaving the regulation of mediators and institutions upon established entities such as SIMC, SMC and SIMI. Moreover, Singapore's alignment with the Singapore Convention on Mediation further strengthens its framework, ensuring global enforceability of cross-border mediated settlement agreements illustrating its institutional credibility rather than legislative elaboration.

India's challenge lies in building the institutional rigour that Singapore has long established, while Singapore's framework, in turn, illustrates how institutional credibility can effectively serve as a substitute for legislative detail. In calibrated terms, the Indian model can be viewed as statutorily comprehensive but institutionally nascent, whereas the Singapore model is legislatively succinct but institutionally robust and resilient.

MEDIATION FRAMEWORK IN THE UNITED STATES

Instead of a single codified statute, the mediation framework in the United States (US) is governed by a decentralized yet cohesive approach, reflecting the state's innovative, institutionally diversified and well-structured system. The US adopts a quasi-uniform, or a pluralistic model of mediation, sustained through an integrated system of state laws, court-devised rules and private institutional practices. This distinctive multi-layered regulatory mechanism for mediation prioritizes state-autonomy over federal codification, enabling flexibility, adaptability and the preservation of professional autonomy. In contrast, India's Mediation Act embodies a conscious effort to codify and institutionalise mediation within its unified statutory framework, reflecting its centralized and prescriptive regulatory approach.

In the US, mediation gained significant prominence during the late 1970s and early 1980s,

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marking the initial legislative efforts toward regulating mediation as an effective tool for dispute settlement. By the mid-1980s, State Bar Associations and legal professionals had further professionalized mediation through structured training programs and laid down ethical standards for lawyer-mediators, thereby integrating mediation within mainstream legal framework.[29] By recognizing mediation as an effective ADR mechanism, the courts, the legal professionals and the private institutions have played an active role in evolving the present coherent and institutionally entrenched mediation regime in the American legal framework.

Some innovative approaches adopted by the US:

- One of the widely adopted innovative mechanisms in the US is the **"Multi-Door Courthouse"** system which offers multiple alternatives to litigation to resolve the dispute. What makes the system unique is that it recognizes that every case is premised on a distinct set of facts and circumstances; consequently, no single process can uniformly address all disputes.[30] Accordingly, the model emphasizes on selecting the most suitable ADR mechanism tailored to the individuality of each dispute, i.e., which is capable of efficiently addressing and resolving the dispute taking into account its specific facts, circumstances, nature, and degree of sensitivity.
- In the 1970s, the U.S. Department of Justice piioneered **"Neighbourhood Justice Centres"** as experimental forums aiming at diverting appropriate cases from conventional litigation, establishing the groundwork for community-based mediation programs that have since influenced the growth of ADR development today.[31]
- Another distinctive process adopted by certain courts of the United States, such as the Court of International Trade[32] and the District Court for the Eastern District of Texas,[33] is the **"court-annexed mediation"** wherein the mediation procedure is initiated upon reference by the court, allowing parties to engage in a probable settlement dialogue. It

[29] Ananya Singh, "Comparative Analysis of Mediation Laws in India and other countries", Manupatra Articles, available at: https://articles.manupatra.com/article-details/Comparative-Analysis-of-Mediation-Laws-in-India-and-other-countries (last visited on October 12, 2025)
[30] Kiran Dhaiya & Dr. Seema Yadav, "Mediation: A Comparative Study among India, USA and UK", Volume IV Issue IV Indian Journal of Law and Legal Research, available at: https://3fdef50c-add3-4615-a675-a91741bcb5c0.usrfiles.com/ugd/3fdef5_350f195fbda64930af794f1b177480aa.pdf (last visited on October 15, 2025)
[31] Chakrapani Misra and Ananya Misra, "Mediation in India: Can Learnings from Other Jurisdictions Help?" SCC Online, *available at:* https://www.scconline.com/blog/post/2025/06/30/mediation-in-india-global-learnings-comparative-insights/ (last visited on October 19, 2025)
[32] Guidelines for court-annexed mediation, available at: https://www.cit.uscourts.gov/sites/cit/files/Guidelines_Mediation.pdf (last visited on October 15, 2025)
[33] Court-Annexed Mediation Plan, United States District Court Easter District of Texas, available at: https://www.txed.uscourts.gov/?q=court-annexed-mediation-plan (last visited on October 15, 2025)

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is a pre-litigation court-supervised mediation procedure that helps parties explore settlement possibilities outside of the traditional court-room setting, and conversely alleviates the burden on formal judicial proceedings.

Distinctive Features of Mediation in the USA

(1) **Uniform Mediation Act, 2001:** In 2001, the US introduced the Uniform Mediation Act (amended in 2003), drafted by the National Conference of Commissioners on Uniform State Laws. The Act serves as a model statute for standardizing mediation practices nationwide, although it is open for adoption by the individual States.[34] This model reflects the State's inclination toward bottom-up regulatory approach that prioritises party autonomy, procedural flexibility, and minimal governmental intervention, driven largely by professional and practical standards.

(2) **Accreditation and Professional Standards:** With respect to accreditation and professional standards, there is a diverse network of professional organisations or institutions in the US for mediators such as American Arbitration Association (AAA), Federal Mediation and Conciliation Service (FMCS), Nation Mediation Board (NMB), Association for Conflict Resolution (ACR), Chartered Institute of Arbitrators (CIArb), US Institute of Peace (USIP), and Judicial Arbitration and Mediation Services (JAMS). Given the decentralized regulatory framework, individual states prescribe their own eligibility and training requirements for mediators. Notably, there is no mandatory state-imposed licencing or certification requirement for practicing as a mediator, thereby opening the doors for private individuals having obtained requisite accreditation, through nationally recognized organisations such as National Association of Certified Mediators, to practice independently as a mediator.[35]

(3) **Enforceability and Cross-Border Enforcement of Mediated Settlement Agreements (MSAs):** Unlike India, the US mediation framework treats MSAs as private contracts rather than automatically conferring upon them the status of decree. Thus, their enforceability depends on the contractual principles and procedural rules of the relevant state, requiring a party seeking enforcement to initiate legal proceedings in accordance with the applicable state rules. This approach of the U.S. legal culture underscores the voluntary, consensual and flexible character of mediation, marking

[34] Uniform Mediation Act, National Conference of Commissioners on Uniform State Laws, available at: https://www.uv.es/medarb/observatorio/leyes-mediacion/eeuu/usa-uniform-mediation-act-2001.pdf (last visited on October 15, 2025)
[35] Supra note 29

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minimal state intervention and maximal party autonomy. In consonance with this approach, the Uniform Mediation Act preserves these characteristics by refraining from prescribing a nationwide standardized enforcement mechanism, leaving such matters to the existing contractual and procedural laws of the individual states.

With respect to cross-border enforceability of the MSAs, both India and the US stand on same statutory and treaty-based footing, i.e., both the States signed the Singapore Convention on 7th August, 2019, but neither of them has ratified it yet.[36] Consequently, neither jurisdiction presently benefits from the Convention's treaty-based, automatic enforcement mechanism of such MSAs. Nevertheless, from a practical standpoint, their enforcement in the US tends to be comparatively more feasible. This is because, in the US, such agreements are treated as private contracts, enforceable as per the applicable state law. In contrast, India's approach of automatically treating MSAs as decree of court renders their cross-border enforceability uncertain and contingent upon foreign law or bilateral arrangements.

A CALIBRATED CONCLUSION: INDIA AND US

Both the systems represent distinct yet coherent models. The U.S. demonstrates institutional, functional and practical maturity, reflecting a decentralized, adaptive and flexible governance approach. It embodies a sophisticated and pragmatically oriented mediation ecosystem in the State. Conversely, India's legislative architecture, though statutorily coherent, still hinges upon effective and timely implementation by the designated statutory authorities. Its fruition would further depend on enhancing institutional autonomy, strengthening professional training standards, judicial prudence in preserving parties' confidentiality and voluntariness, and an active commitment to align with international norms such as the timely ratification of the Singapore Convention.

While the Indian approach ensures uniformity and statutory clarity through structured codification, yet it remains at a formative and evolving stage. In contrast, the American model, despite being less codified, exhibits deep institutional maturity and operational resilience, reflecting an organic, experience-driven and practice-based development. Thus it can be concluded that in terms of institutional maturity, practical robustness, and integration with international practice, the U.S. mediation framework stands stronger. However, if evaluated on

[36] Supra note no. 26

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parameters of comprehensiveness and statutory coherence, India's Mediation Act occupies a relatively superior footing, embodying an exhaustive legislative design, albeit still in its nascent phase of effective implementation.

CONCLUSION

The extensive comparative study of the mediation frameworks in India, Singapore and the United States reveals a broad spectrum of regulatory evolution, representing three distinct trajectories. Upon assessing on parameters such as institutional design and norms, professional standards, regulation maturity, and integration with global practices, following brief conclusions may be drawn:

- **Singapore** reflects a strategically crafted and internationally attuned legislative framework, optimized for cross-border enforceability of the mediated settlement agreements.
- **The United States** demonstrates a decentralized, practice-driven and pragmatically adaptable model that has evolved organically through experience and professional self-regulation. However its limited engagement to align with the global instruments for cross-border enforceability of the mediated settled agreements places it at a relative disadvantage as compared to Singapore.
- **India's** framework, though legislatively comprehensive and well-intended, remains at a nascent stage, leaving substantial scope for practical realization. Its advancement toward global credibility and a self-sustaining mediation ecosystem largely depends upon establishing robust implementation mechanisms, strengthening professional standards, and strategically aligning with international norms.

In essence, while each system mirrors its unique socio-legal context, their comparative experiences collectively underscore that legislative sophistication must be complemented by effective institutional practice.