



Mediation Council of India

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Why in News?

The push for establishing a **Mediation Council of India (MCI)** has intensified amid growing calls for faster, cheaper dispute resolution.

Note: Mediation is a process where a neutral mediator facilitates communication between parties to help them reach a mutual agreement, without making decisions for them.

- **Types of Mediation:** **Settlement Conference** (attorney-led, focuses on reaching a settlement), **Facilitative Mediation** (focuses on improving relationships and mutual understanding), and **Transformative Mediation** (empowers parties to resolve the conflict themselves, with settlement as a secondary goal).

Why is the Mediation Council of India Needed?

- **2023 Mediation Act:** The [Mediation Act, 2023](#) mandates the creation of the **Mediation Council of India (MCI)**.
 - Although the government aimed to set up the **MCI by the end of 2023**, its formation has been delayed.
- **Role of Proposed MCI:** The MCI will be responsible for **setting the rules and procedures** for mediation in India.
 - It will grant **authority to mediators and ensure that mediation practices** adhere to established standards.
 - The Council will oversee the **education, assessment, and certification of mediators**, making the process more transparent and regulated.
- **Need:** A **functional mediation council** is essential for reducing legal bottlenecks and fostering a business-friendly environment by resolving commercial disputes more **quickly and cost-effectively** than arbitration.
 - Mediation provides a **flexible, less adversarial alternative to litigation**, aiding in mutually agreeable settlements. An efficient MCI can reduce judicial burdens.
 - While mediation is **often court-mandated**, the MCI's establishment is expected to lead more businesses to choose **mediation voluntarily**, enhancing its role in resolving commercial disputes.
 - For instance, under the [Commercial Court Act, 2015](#), parties are mandated to try mediation before entering courts.
 - [Online dispute resolution \(ODR\) services](#), including **e-mediation**, are set to grow rapidly.
 - A well-regulated mediation framework will **boost confidence in India's commercial dispute resolution**, enhancing its **global business standing**, attracting investors, and facilitating smoother transactions.

How is Commercial Dispute Resolution Currently Handled in India?

- **Commercial Courts:** Established under the **Commercial Courts Act, 2015**, these courts expedite the resolution of disputes involving monetary thresholds above Rs 3 Lakhs.
 - They are staffed with judges experienced in commercial law and aim to reduce litigation delays and enhance business efficiency.
 - Commercial courts also encourage **arbitration, before formal litigation.**
- **Arbitration:** Governed by the **Arbitration and Conciliation Act, 1996**, (amended in 2015, 2019, and 2021) enhances neutrality, reduces judicial intervention, and ensures timely resolutions.
 - Arbitration, with a neutral arbitrator chosen by both parties, offers binding decisions. It can be ad hoc or institutional, such as through the **Indian Council of Arbitration.**
 - The **India International Arbitration Centre Act, 2019** established the India **International Arbitration Centre** for domestic and international arbitration.
- **Conciliation:** It is an out-of-court dispute resolution method where a neutral conciliator helps parties resolve their commercial disputes.
 - Conciliation, governed by the **Arbitration and Conciliation Act, 1996**, helps preserve relationships by facilitating discussions and proposing solutions, without imposing decisions like Arbitration.
- **Negotiation:** Negotiation is a voluntary, non-binding **Alternate Dispute Resolution (ADR) process** where parties directly engage to settle differences without third-party intervention, commonly used in commercial disputes.

UPSC Civil Services Examination Previous Year Question (PYQ)

Prelims

Q1. With reference to Lok Adalats, which of the following statements is correct? (2010)

- (a) Lok Adalats have the jurisdiction to settle the matters at the pre-litigation stage and not those matters pending before any court
- (b) Lok Adalats can deal with matters which are civil and not criminal in nature
- (c) Every Lok Adalat consists of either serving or retired judicial officers only and not any other person
- (d) None of the statements given above is correct

Ans: (d)