



Mediation as a Solution to Judicial Backlog

For Prelims: [Mediation](#), [Public Interest Litigation](#), [Alternative Dispute Resolution Mechanisms](#), [SUPACE](#)

For Mains: Judicial Backlog in India, Mediation Provisions, Benefits, and Challenges

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Why in News?

The **backlog of cases** in India's judicial system has reached alarming levels, with over **82,000 pending cases in the Supreme Court (SC)**, 62 lakh in High Courts, and nearly 5 crore in lower courts.

- Amidst growing concerns over judicial delays, **mediation is emerging as a viable alternative** to reduce the burden on courts and facilitate quicker dispute resolution.

What are the Causes for Judicial Backlog in India?

- Low Judge-to-Population Ratio:** India has **only 21 judges per million people**, one of the lowest ratios globally. This results in an overwhelming **workload for judges**, slowing down case disposal.
- Rise in Litigation:** Growing legal awareness and mechanisms like [Public Interest Litigation \(PIL\)](#) have led to an increase in the number of cases filed.
 - Litigants often approach courts for **every small dispute**, including non-meritorious cases which further clog the judiciary.
 - Nearly **half of all pending cases** involve the **government as a litigant**, increasing the burden on courts.
- Adversarial Legal System:** The Indian Judicial system encourages **multiple interim applications and successive appeals**, prolonging the litigation process.
 - Further, laws like the **Bihar Prohibition and Excise Act, 2016**, have further clogged high courts with bail applications.
- Infrastructure and Procedural Deficiency:** **Lack of sufficient courtrooms, and digital infrastructure** delays proceedings. Budgetary constraints limit the expansion of judicial capacity.
 - Adjournments, difficulty in locating witnesses, and delays in obtaining evidence contribute to the backlog.
- Underutilized ADR Mechanisms:** Although [Alternative Dispute Resolution \(ADR\) Mechanisms](#) like **mediation**, [arbitration](#), and [conciliation](#) are available, they are not widely used.

How Can Mediation Help in Reducing Judicial Backlog?

- Mediation:** It is an **ADR process** in which a **neutral third party (mediator)** facilitates discussions between disputing parties to help them reach a mutually agreeable solution.

- Mediation is voluntary, confidential, and cost-effective, with mediators guiding parties to a mutual solution.
- **Legal Framework:**
 - **Mediation Act, 2023:** Mandates **pre-litigation mediation** for civil and commercial disputes, except in urgent cases.
 - The [Mediation Act, 2023](#) grants mediation agreements the same legal status as a court decree and mandates resolution within **120 days**, extendable by 60 days if needed.
 - However, cases related to **criminal offenses, third-party rights, and taxation** are exempt from mediation.
 - **Commercial Court Act 2015:** Parties are mandated to try mediation before entering courts.
 - **Code of Civil Procedure, 1908:** Includes ADR methods like **Arbitration, Mediation, and Conciliation** for resolving disputes outside traditional court proceedings.
- **Role in Reducing Judicial Backlog:** Mediation resolves **civil, commercial, family, consumer, and property disputes**, allowing courts to focus on **criminal and constitutional cases**, reducing their workload.
 - [NITI Aayog \(National Institution for Transforming India\)](#) suggests pre-litigation mediation in government cases to ease court congestion and minimize legal disputes.
 - Mediation helps **resolve business, family, and community disputes** while preserving relationships, often leading to amicable settlements in matrimonial cases.

What are the Alternative Dispute Resolution Mechanisms?

Click here to Read: [Alternative Dispute Resolution Mechanisms](#)

What are the Challenges Regarding Mediation in India?

- **Lack of Awareness:** Many litigants and lawyers **prefer traditional litigation** over mediation due to lack of awareness about its benefits.
- **Enforcement Mechanism:** While the **Mediation Act, 2023** mandates the **Mediation Council of India (MCI)**, no such body has been formed yet for effective implementation.
 - Government agencies, involved in **50% of cases**, often prefer prolonged litigation over quick mediation settlements.
- **Non-Binding Nature:** Since mediation is **voluntary and non-binding until agreement**, parties may **walk away** without resolution.
- **Limited Institutional Support:** Court-annexed mediation centers are **not available in all courts**, limiting access to mediation services.

Way Forward

- **Adopt Best Practices:** India can adopt global best practices like the UK's mediation mandate, and Italy's mandatory mediation to reduce judicial backlog.
- **Institutional Upgrade:** Establish the **MCI** to regulate mediation, authorize mediators, and enforce standardized practices.
 - Expanding **court-annexed mediation** can further ease backlog and enhance creditworthiness.
 - Additionally, increase the **judge-population ratio from 21 to 50 per million** (as per the **Law Commission's 1987 report**) to ensure timely justice and effectively address broader issues of judicial backlog.
- **Online Mediation:** Encourage online mediation by developing digital platforms to assist mediators, similar to the [Supreme Court's SUPACE](#) for legal research.
 - Promote institutional mediation for businesses to resolve disputes efficiently.
- **Training:** Conduct **awareness campaigns** for litigants and legal professionals while introducing **structured training programs** for mediators.

[Drishti Mains Question:](#)

How can mediation serve as an effective tool to reduce judicial backlog in India?

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