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Alliance School of Law

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ACADR

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ROLE OF MEDIATION IN DISPUTE RESOLUTION

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ABOUT ACADR

Vision

The Alliance Centre for Alternative Dispute Resolution (ACADR) seeks to contribute to the vision of the Alliance School of Law, Alliance University of developing human beings who are technically sound, socially relevant, and emotionally strong thereby imbuing in themselves the requisite skills of alternative dispute resolution methods like active listening, understanding other's point of view, discussions, empathy, rational thinking, solution-oriented approach, analytical understanding, and community interest.

Mission

The ACADR has a mission to promote the full utilization of ADR methods amongst the legal and non-legal professionals, students, and general public at large. The Centre envisages a society which values harmony, brotherhood, peaceful co-existence, and multiplicity. The skills involved therein ADR methods are not only for harmoniously resolving the disputes and differences, but these are lifelong skills which are needed by all of us. The Centre aspires to bring in place an indelible change in the viewpoints of the society with regard to the disputes/

disagreements not as scars but as an opportunity.

Objectives

- ✚ To provide counselling services to people, lawyers, organizations, NGOs, government dispute resolution mechanisms.
- ✚ To raise the level of awareness on issues with regard to alternative techniques of dispute resolution mechanisms thereby practicing conflict management.
- ✚ To organize seminars/conferences, workshops, debates/discussions on contemporary issues with regard to ADR mechanisms.
- ✚ Publication of journal, magazine, newsletter etc. on alternative dispute resolution methods and best practices.
- ✚ Designing industry driven courses and conducting classes on courses like diploma, certificate on ADR methods like arbitration, mediation, dispute management, etc.
- ✚ To stimulate academic research maneuvers on contemporary issues relating to dispute resolution, dispute management, mediation, conciliation.
- ✚ To liaise with ADR professionals, lawyers, institutions, NGOs, government on matters relating to dispute resolution.

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FROM THE DESK OF DEAN



I feel elated and overwhelmed having known that Alliance Centre for Alternate Dispute Resolution, Alliance School of Law, Alliance University has brought out its second edition of ACADR Newsletter 2022. ACADR has already been on the upgrade thereby taking its reach to magnificent research and innovative practices. This newsletter has got very informative and decisive viewpoints so expressed in greater detail by the contributors pertaining to Mediation and related practices. New vistas of mediation are being explored at the

international level therefore, it becomes incumbent for the reader, practitioners, lawyers, academicians, policy makers, law students and mediators to get accustomed to all such best practices and methods which could be adopted in order to provide amicable and time bound solution to the issues concerned. I therefore am confident that this edition shall sensitize all concerned about the efficacy and utility value of mediation and related tools thereby enabling the reader to add more value to their understanding of such domain.

I congratulate the entire editorial team and wish the Centre splendid success in future!

Prof. (Dr.) Kiran D. Gardner
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DIRECTOR SPEAKS



For the past couple of years, it has been found that the ADR methods of solving disputes have been well accepted and recognized in the world. Nevertheless, mediation tools and techniques have been explored and have been found to be a blessing in disguise especially while dealing with family as well as commercial matters. Indian Apex Court has also from time to time endorsed such mechanisms including Mediation procedures and techniques. The current edition of ACADR Newsletter 2022 therefore has done justice by unearthing hidden complexities and possibilities pertaining to this ADR tool thereby elaborating more upon the methods of using it so as

to provide timely relief to the affected parties. I do believe that this academic endeavor from ACADR shall bring more clarity and decisiveness amongst readers, practitioners, lawyers, academicians, policy makers and law students thereby enabling them to zero in on such developments being mindful in times to come.

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FROM THE EXPERTS

CONCILIATION AND MEDIATION



Firdosh Karachiwala

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Conciliation and Mediation are recognised as two important and effective modes of alternative dispute resolution system. These are considered as effective and meaningful alternatives to litigation through courts for resolution of disputes through the guidance and assistance of a neutral and impartial third party.

This method of resolving disputes through mediation and negotiation is, however, not foreign in our country. Village Panchayats and Nyaya Panchayats have been functioning in the villages and many disputes at the village level have been settled through conciliation and mediation in these Panchayats for a very long time. But such remedy through Panchayat was sought for more as convenience as they are more easily approachable than the

Courts which are located far away from the villages.

However, with the passage of time there has been overcrowding in numbers of litigation. There has also been delay in disposal of litigation for various reasons like shortage of judges and judicial officers, shortage of infrastructure and increase in population. Better understanding and awareness of their rights by the general public has also led to filing of more cases in the courts. Accordingly, it was thought that as there is a heavy traffic in the main thoroughfare, a bye pass is to be opened to ease the pressure in the main thoroughfare and consequently the device of alternative dispute resolution system like conciliation and mediation has been carved out. This form or process is settlement geared and is also definitely cost saving. It also helps the parties to adopt a problem-solving approach to find out a “win win” outcome. When a dispute is resolved through this process, there is no winner or loser for the parties agree to the solution whereas in a litigation there is always a loser and even the winner of

the litigation goes back home at times feeling fully exhausted physically, mentally, and also financially.

Under the Code of Civil Procedure, 1908 express provisions are contained in the form of Order XXXII A, Rule 3 whereunder a duty is cast upon the courts to make efforts for settlement in suits relating to matters concerning a family. Similarly, under Order XXXVII Rule 5B, a duty is cast upon the court in a suit against the government or a public officer to assist in arriving at a settlement.

However, an elaborate codified recognition has been given to the two concepts only with the enactment of the Arbitration and Conciliation Act, 1996. In the said Act, a separate chapter is devoted to the concept of conciliation. Of late, even in civil litigation provisions have been made for getting the disputes resolved through the process of arbitration, mediation, conciliation, or Lok Adalats, if the court is of the opinion that the case could be settled through one of the said modes. The said procedure is generally adopted after

completion of the process of admission/denial of the documents as at that stage when issues are framed in the suit, the court becomes aware of the actual issues involved in the suit. It is, however, interesting to note that under the provisions of section 89 Code of Civil Procedure, 1908 the court is given the power and jurisdiction to refer the dispute/litigation to an arbitrator without even existence of an arbitration clause. Therefore, there is probably a grey area which is required to be settled through an appropriate pronouncement as to whether consent of the parties would be necessary for such reference, which would probably give rise to an arbitration agreement.

The concept of conciliation has now been given a statutory recognition under the Arbitration and Conciliation Act, 1996. But it is not very clear as to whether the two concepts of conciliation and mediation would have different connotations, or they would refer to the same mode. According to most of the authorities, they are overlapping. But the expression conciliation is not defined in the Act. It only states that

conciliation could take place not only in contractual and commercial disputes but also in all disputes arising out of legal relationship.

Cases referred to Conciliation and Mediation by the Hon'ble high Court of Bombay:

An educated girl was asked to marry a person from Bahrain from the same community and both the girl and boy had few meetings and the marriage was finalised. Before marriage the girl had asked two questions to the would-be husband whether he drinks and whether he smokes. To both the questions the would-be husband said he does not drink or smoke. After the marriage hurriedly concluded the couple went to Bahrain. The husband invited his colleagues and friends to a Reception when the wife saw he was drinking and smoking. She thought husband had betrayed her because twice or thrice he would have Parties at home till late nights and the wife had to do all cleaning and washing utensils. She was getting frustrated day by day and one day she discreetly took her child and

returned to India. Husband after few days called the wife but she refused to talk to him. Husband made calls to wife's parents and friends but did not succeed to bring back the wife. Ultimately, he came to Mumbai with lots of Gifts for the family. Wife refused to accept the Gifts and told him not to enter the house. Husband being frustrated went to a Family Court Lawyer and said he wants his wife and child back. Lawyer advised to file a Divorce Petition which will bring back wife and child. Husband as advised filed a Divorce Petition and took all the grounds under the Hindu Law including adultery, mental torture, desertion etc. When the wife received the Divorce Petition, she was very upset and angry. She filed Application for maintenance for the child and herself from the date she came to India. The Family Court her maintenance of Rs 6000/ only per month. Wife was unhappy as the husband was earning lakhs per month and therefore, she Appealed to the Bombay high Court. Justice Chandrachud the Judge of Bombay High Court raised the

maintenance amount to Rs 15000/ per month with retrospective date when she returned. Husband committed default in paying the maintenance and the wife took out a Contempt Petition. Husband was advised to go to Mumbai and get the Contempt Petition settled or he would be sentenced to jail. Husband came to Mumbai and met an Advocate of High Court who advised to file Appeal against Justice Chandrachud's order. Appellate Court admitted the Appeal and directed to pay entire outstanding amount with interest. Advocate then told husband to file a Review Petition before Justice Chandrachud. When Review Petition came up for hearing the matter was referred to Conciliation. The Conciliators spent more than 12 hours to bring about an amicable settlement and held Joint and Private sessions with both the parties. They found the wife was Positional bargainer who did not want to compromise, and husband was a Principal bargainer who wanted his wife and child back. As no progress was being made the husband was advised to go for Divorce by mutual consent.

Husband was asked what he was prepared to give his Wife and Child. Husband next day gave the proposal viz (a) He would transfer his Mumbai bungalow to the name of the child from which income could be generated and even sold, if necessary, (b) Husband would pay all the premiums of the policies of his wife and child and on its maturity would hand over the entire amount to the wife and child, and (c) he would bear all education and health expenses of the wife and child. Based on the Consent terms filed before Justice Chandrachud he passed an order for the family Court to pass a decree for Divorce on the basis of the consent terms. More than 5 years have passed but the Couple have not gone to the Family Court to take Divorce and now have three children. It is now happy family. This is Miracle of Mediation.

ADR ACCEPTANCE IN INDIA



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Alternative Dispute Resolution (“ADR”) has been in place in India for several centuries. ADR methods such as arbitration, mediation, conciliation and Lok Adalats (people’s court) are very important in India for the speedy resolution of disputes.

As regards arbitration, in order to facilitate business, India adopted the United Nations Commission on International Trade Law (UNCITRAL) in 1985 in its entirety except for a few variations and enacted the Arbitration and Conciliation Act, 1996 (“the Arbitration Act”), with the objective “to consolidate and amend the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards as also to define the law relating to conciliation...”

It is a comprehensive piece of legislation that lays down the law on arbitration in

India, and is divided into four parts, i.e., Arbitration seated in India (Part I); Enforcement of Foreign Awards (Part II); Conciliation (Part III) and Supplementary Provisions (Part IV).

The Arbitration Act was amended in the year 2015 and 2019 with an aim to make India an arbitration friendly jurisdiction and make the process more user friendly. The 2015 and 2019 amendments are a step towards bringing the arbitration regime in India in consonance with international standards. The improvements contained therein include time bound disposal of the arbitration proceedings, independence and impartiality of arbitrators, recognition of orders passed by the arbitral tribunal as orders of the court for purpose of enforcement etc.

Mediation on the other hand is also an effective alternative to the tradition methods of litigation and is now being projected as a first option for the parties to pursue. In 2018, the Commercial Courts Act, 2015 was amended and Section 12A was inserted which provides that a suit which does not

contemplate any urgent interim relief shall not be instituted unless the parties exhaust the remedy of pre-institution mediation. In addition, mediation finds mention in the Companies Act, 2013 which provides for the institution of a mediation panel to whom the parties or the Court may at any time during the proceedings refer the matter with the intention to amicably settle the matter. Recently, the Mediation Bill, 2021 was introduced in Rajya Sabha on December 20, 2021. The said Bill seeks to promote mediation and provide for enforcement of settlement agreements resulting from mediation.

Conciliation on the other hand is distinct from Mediation, where the conciliator may not follow a structured process and carry out the process of conciliation as a traditional negotiation, which may take different forms. The Arbitration Act, in Part III also contains provisions relating to conciliation.

In addition, Lok Adalats are being organised at regular intervals by the courts to clear pending matters.

Over a period of time, the above ADR methods have gained acceptance from all quarters of the

society and is used frequently. While arbitration is the most used method, the other forms, i.e., mediation, conciliation and lok adalats are also being resorted to regularly and has helped the judiciary tremendously to clear backlog. With the introduction of Mediation Bill, 2021, the ADR arena is all set to get a big boost.

To conclude, ADR has proved to be a boon for the judiciary and the litigants have immensely benefitted out of the same.

THE ROLE OF MEDIATION IN DISPUTE RESOLUTION

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Mediation is a form of Alternate Dispute Resolution (ADR). The purpose of mediation is for parties to reach an amicable agreement, which is subsequently written down and constitutes a contract. In this procedure, a neutral third party, referred to as mediator, assists disputants in reaching their agreement by assisting them in finding a durable and self-determined resolution to their conflict.

What are the benefits of mediation?

Mediation is beneficial because it provides the parties to a conflict with opportunities for personal and societal growth. The expectation of substantive justice is implicit in the premise of voluntariness and the formulation of a solution by the parties themselves. In addition, compared to other dispute methods, mediation promises to be

cheaper, more efficient, and faster. As a result, parties may choose mediation because they believe it will be faster and less expensive than going to court. Another motivation to choose mediation over litigation is the desire to maintain a positive connection with the opposing party, which is especially crucial in family disputes.

Mediation Bill, 2021

In his address to the inaugural Singapore - India Mediation Summit, 2021, Chief Justice of India (CJI), Justice N.V. Ramana, stated that mediation should be made mandatory as the first step for dispute resolution and that a law should be framed in this regard.

The Mediation Bill, 2021, was drafted in response to the desire for a separate mediation law, to sanctify the process, provide a standard platform for its practice, and remove discrepancies between the existing laws. According to the bill, the mediation settlement agreement will have the legal character of a court decision or decree and will be binding. This will go a long way toward ensuring that agreements reached

through mediation are legally recognized and upheld.

Before addressing any court or tribunal, a party is required by Section 6(1) of the bill to take steps to resolve the disagreement through pre-litigation mediation. This will be a mandatory requirement, and it is a significant step forward. The mediator might either be chosen by the parties or by the recognized service provider. At least one substantive session with the mediator is required, during which the process is described to the parties. They then have the option of continuing or terminating the mediation and the proceedings to the court if they so want. They can even circumvent mediation if an urgent interim order is so required.

A judge or any other distinguished person must be chosen by the federal government as chairperson, according to Section 36 of the bill. This is a significant difference from the committee of mediators' proposed mediation bill. The current structure is unsuitable for a professional organization and is more akin to that of

a government regulator. Members of the council should be experts in the field of mediation. All selections to the council must be made by the CJI and should not be left to the executive. Section 32 (1) of the article defines online mediation. According to Section 47 of the law, any dispute among inhabitants or families of any area or location that threatens peace, harmony, or tranquility may be resolved through community mediation.

Benefits of institutionalizing Mediation

When compared to the costs of litigation or other kinds of conflict resolution, mediation is often less expensive.

Mediation is typically a more expedient manner of settling issues. Mediation may be desirable as a technique of obtaining speedy results when parties want to move on with their companies or lives. Parties are often happier with the solutions that have been reached via mutual agreement rather than ones imposed by a third-party decision-maker. Parties who establish their agreement through mediation are also more likely to follow through and

adhere to its conditions than those whose resolution is imposed by a third-party arbitrator.

Mediated agreements can deal with legal and non – legal matters. Mediated agreements frequently address procedural and psychological difficulties that aren't always amenable to legal resolution. The parties can modify their agreement to their specific circumstances. Parties who negotiate their settlements have greater control over the outcomes of their disputes. Gains and losses in a mediated settlement are more predictable than they would be in an arbitrated or adjudicated case. Mediation can make termination of a relationship more amicable.

Conclusion

Mediation can be described as an instrument of social justice because it is the cheapest and most straightforward choice available to the general population.

Separate mediation legislation and rules will undoubtedly answer most of the

complaints about the mediation process and pave way for mediation to become the preferred means of resolving domestic and cross-border conflicts.

MEDIATOR'S MUST HAVES



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Mediation is a process of resolving disputes under the assistance of a mediator on the voluntary agreement of the parties with a view to arrive at an amicable resolution of the dispute. Mediation is a skill and requires a set of qualities that makes one a good mediator. A mediator does not sort things out for the parties, instead they just assist and facilitate the process for the parties to make an amicable agreement. Trust is the first and foremost quality that is expected from a mediator. A mediator shall be in a position to be trusted by the parties to dispute, and the case details should not be compromised by the mediator. The list of qualities is followed by good listening skills. A mediator cannot do

justice to the process of mediation if they are not good listeners. A good mediator is expected to listen and observe both the sides completely, before trying to make their observations and suggestions. A mediator is expected to continuously assess the value and veracity of the allegations and contentions put forth by the parties. Mediation, just like other means of Alternative Dispute Resolution can be used to settle disputes of a vast and varying nature from matrimonial matters to adoption and guardianship, to partnership disputes, hence it is very important for a mediator to possess a sound emotional quotient. A mediator cannot assist the parties in the right direction, if they are unable to perceive the underlying emotions involved in the dispute and among the disputing parties. The next quality that is expected from a mediator is empathy, i.e., a mediator should be in a position to put himself into the shoes of the parties to dispute and try to experience their feelings and agony, it is only then that a mediator can lead the way out. Being knowledgeable is another quality of a

good mediator. There may be disputes that are simple and could be resolved by simple assistance to the parties, however, there are few disputes that involves legal repercussions and requires sound knowledge of law. The next quality that is expected from a good mediator is being realistic. Providing solutions that have very less likelihood of happening is futile, and hence a good mediator must provide practical ways to settle the dispute.

Conclusion

Mediation is a form of Alternative Dispute Resolution mechanism and aims at resolving the disputes outside the court. However, it needs to be understood that mediation does not always work. No matter how skilled and professional a mediator is, it may be the case that they may not be able to come up with a possible solution out, if the parties to the dispute are not prepared to discover the solution. Understanding the dispute is always the first step to resolve it, however, a mediator or even a judge for that matter must be capable of identifying the root cause of the

dispute, and only then they may be able to arrive at a possible solution out of the dispute. What makes mediation a more practical and preferred form of dispute resolution mechanism is the least number of procedural latches attached to it as compared to other methods of dispute resolution. The parties get a chance to present their contentions and version of stories directly and fully, instead of being represented by an advocate as in court room settlement of disputes. Thus, a mediator should possess the above-mentioned qualities, which will ensure the parties to open up before the mediator and come up with a sound and amicable way out.

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E-MEDIATION: A CURTAIN RAISER



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This is the era of technology and development and no matter how we see it; it is here to stay. Everything from schools to jobs has now been influenced by technology and mostly for the better. The internet today has become an indispensable business resource and we can clearly see that many companies rely on online tools. So, it would not be wrong to say that it might be a good time for mediators to do the same as most businesses are shifting towards digital environments. Suffice to say that online mediation, or 'e-mediation', could greatly help the mediators meet the client's changing needs in the currently increasingly digital workplace.

What is Mediation?

E-mediation or online mediation is not really a new concept, however recent events and the changing world has now put a new emphasis on it. As we were dealing with the pandemic, many companies have now shifted to a work-from-home approach. This has made most of the work done on an online mode. However, conflicts are still present despite this. An e-Mediation is a confidential mediation done on an online mode. It is the process which litigants use to facilitate the resolution of e-discovery disputes in quite a cost-efficient manner. Through e-mediation parties can meet not only through video conferencing but through emails or other messaging applications as well.

Why should we go for E-Mediation?

Since everything is now undergoing a change based on technology, it is only right to expect changes in legal field.

Not to mention, the current pandemic has made it even more necessary that we experiment with this process. E-mediation can provide a solution to some of the limitations that we face in traditional approaches. Firstly, it allows

us to meet when meeting in-person is not an option for any reason. In addition to this, with videoconferencing tools, we don't have to sacrifice non-verbal cues for convenience. It is more comfortable and availability issues are not a barrier in this case. It saves travel time and exhaustion of waiting which gives it major bonus. It could reduce negative reactions from clients as they are in a more comfortable environment. In case where messages are used instead of video conferencing, there are certain other benefits as clients have more time to think and prepare which makes them feel at ease, enabling more productive conversations. E-mediation tools can in several ways, streamline the conflict resolution process. Along with this, we can use document-sharing applications to make filing paperwork more straightforward and quicker.

Challenges with E-Mediation

Like every change that takes place, e-mediation has its fair share of downsides as well. We are not stranger to online frauds and cyber offences. There is always a chance of such

mishappening. Other issue that puts e-mediation on a downside is connectivity. Social media is an example that shows how easy it is to say something inflammatory when we are not facing the person on the receiving end. Suffice to say that sometimes, it is easier to be more empathetic when we are meeting in person. It helps us to connect to the said person and understand their situations with a broader view. If any client gets frustrated or offended, they can just quit the meeting altogether with just a click. The convenience of e-mediation can therefore also be a potential downside in this case. This results in more frustration, not to mention waste of time.

It may be more challenging for the mediator to keep both parties actively engaged when they are not in the same place. Now we know that as with any tech-reliant operation, e-mediation is also prone to any form of technological failure. Any kind of disruption in either party's internet connection can slow the process or stop it altogether. Time consumption aside, these disruptions

can frustrate the clients and it can be counter-effective on the mediation process.^[1]

Conclusion

Technology could be a double-edged sword. It can create new opportunities, with some drawbacks on the side. However, the truth is that we cannot stay away from it. Mediators should not be sceptical about technology but use it to their benefit. It can help the conflict resolution to become more effective and versatile. E-mediation is going to help us address workplace issues in this increasingly digital world. The internet has forever changed how the human race conducts business and we need to embrace it. Technology is here to stay and therefore it would be a good idea to adapt and create something even better with it.

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E-MEDIATION: A NEW TOOL IN THE DISPUTE RESOLUTION MACHINERY



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Settlement of family disputes by means of Alternative Dispute Redressal (hereinafter, ADR) mechanisms, more specifically mediation, have become increasingly common during the past decade. The courts have, in several instances, mandated mediation as a prelude to adjudication and have seen an increase in the success rate of settlements thereby arrived at. Speedy and effective resolution of disputes gives families a great scope to resolve their disputes, including, inter alia, divorce and separation, matters of custody, maintenance of dependents including aged parents, inheritance, and similar property-related matters. The increasing instances of domestic violence have paved way for mediation as well.^[1] The same stems from increased awareness among individuals and families. In

many cases the Court itself, in its discretion, refers matters of this nature to mediation, by virtue of Section 89 of the CPC.^[2]

Qualities of a good mediator

It is pertinent to note at this point that choice of a good mediator is one of the most prominent facts in determining the success of the mediation procedure. This would entail a lookout for qualities such as trustworthiness, impartiality, neutrality, objectivity, patience, perseverance, credibility, alertness.^[3] A vigilant approach towards the intricacies of the dispute as well as of the parties involved in the same is a commendable quality that a good mediator possesses. An added bonus in the scenario would be the presence of an advocate, which would facilitate a better understanding of the legalities involved in the dispute as well as consequences of decisions they might take during the proceedings or in the near future, thereby painting the parties, a holistic and more comprehensive picture. The establishment of a good rapport between the parties and the mediator(s)

as well as the advocate is of utmost importance for the success of the proceeding, perhaps more than techniques and tactics involved in the same.

Emergence of E-Mediation

With the outbreak of the Novel Coronavirus Pandemic forcing the entire judicial and administrative systems to shift to an online mode of functioning, a broad way has been paved for e-mediation. This essentially means the shift of mediation proceedings from a physical form, requiring the parties to appear before the mediator in person, to the same being conducted online by means of video conferencing platforms.

Advantages

1. They can be done from the comfort of one's, i.e., the client's as well as advocate's home or practically anywhere else in the world.
2. This also leads to tremendous savings on travelling expenses and saves the time that would otherwise be utilized for travelling.
3. It gives rise to fewer emotional triggers such as facial expressions and changes in body language, which are common in such settings. The safety of individuals is maximized, and the threat of harm is significantly reduced, which gives parties autonomy to say things as they are, without worrying about the reactions from the other side.
4. The unpleasant Family Court atmosphere can effectively be avoided by the creation of a comfortable environment for conversation and consequently, the resolution of the dispute at hand.
5. E-mediation requires much lesser office space, if at all, and saves huge amounts of money that would otherwise be spent on necessities such as rent, electricity, water, stationery and other miscellaneous expenses. This correlates to a massive reduction in expenditure, which consequently brings down the cost incurred in the procedure and makes room for a more affordable fee rate structure.
6. Online meetings are easier to schedule and coordinate. A simple

forward of a link enables parties, mediators and advocates to be present.

Disadvantages

1. Lack of accessibility to internet and video conferencing platforms, especially in rural and other underdeveloped areas. Similarly, instances of internet outages in less peaceful parts of the world would deprive people from opting for e-mediation.
2. Network hindrances, including fluctuations in weather conditions affect smooth continuation of online proceedings.
3. Disturbances and privacy issues
4. Subtle changes in body language and facial expressions, which play a significant role in understanding the nuances of the situation, may be missed.

Conclusion

To sum up, the trend of e-mediation as a curtain raiser has emerged significantly over the past few years, especially after the emergence of the global pandemic

that has forced almost the entire world to function on online platforms. Despite the downfall caused by the pandemic, the efficiency of mediation proceedings has remained unaffected and has brought about a simple and effortless approach to the existing justice delivery system.

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MANDATORY PRE-MEDIATION IN FAMILY DISPUTES



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India as a pastoral is sumptuous in cultural heritage as predominant significance is given to the values and norms.^[1] Family is one of the fundamental aspects of the Indian culture. It represents the integrity, strength, loyalty and portrays the spirit

of sacrifice and marriage is the first course towards that family establishment. It not only symbolises the physical union but also reflects the emotional union and the essential values. However, when two individuals unite for conjugality, conflict of interest may turn out and dispute may arise, so to resolve that arisen dispute mediation is the process, which can protect the sacrosanct nature of the marriage through a principle of compromise. The reason behind making mediation mandatory is that as the family disputes happens in the heat of moment so it should be handled delicately without sending it directly to court proceedings. All these matrimonial disputes should not be directly sent to court rather be referred for a process which is more party friendly i.e., mediation.^[2]

Mediation in simple denotes an accommodating process where a neutral person known as mediator assist the parties in question to collaboratively acceptable solution to their dispute. It is more facile in nature and saves time and money as well.

This paperwork commends the insertion of mandatory pre- mediation process in family and matrimonial disputes. As the term suggests, mediation must be made obligatory as a process to be followed by the parties dealing with the family disputes before approaching to any court of law. This suggestion is based on the principle of “opt-out”,^[3] which has been internationally accepted and in this the parties cannot approach courts until and unless they establish that they have/had attended the incipient mediation sessions. The focal idea behind encouraging mediation is to promote friendly cooperation between both the parties. This principle is an attempt to reduce the pendency of family disputes in respective courts and to preserve the adored nature and values of the marriage and family. An example to support the above claim is the Commercial Courts Act, 2015, which was amended in 2018,^[4] making mediation mandatory before initiating any suit. This marked the significant reduce in pendency of commercial cases and provided with steady solutions.

Hence, if the similar step is taken for family disputes, then surely desired results could be accomplished.

Indian legal system does emphasise on alternative resolutions methods for instance section 89 of CPC read with Order X Rule 1A,^[5] which empowers civil courts for references to alternative remedies, The Family Court Act, 1984, personal laws, and special laws also contemplate upon efforts for settlement of dispute. Even though the different provisions and settled law exist, but they have not allowed for reaping any benefit as nowhere it has been mentioned to adopt for mediation as the initial stage but have just left on the discretion of the court to recommend.

It would be extremely conducive if we adopt the method of mandatory mediation, for reasons stated forthwith. Firstly, it would be stoutly effective in reducing the boatload of the court as they are overburdened with cases and this step could verily be very effective. Secondly, being an essential aspect of Indian culture, family and marriage dispute must be approached with compromising approach. Considerable

number of cases which are compoundable in nature could be brought to better results. Thirdly, this would also enable to preserve the interest of the children who tends to be the biggest victim of parental disputes.

Lastly, this process is quick and efficacious and is much economically much frugal than attorneys.

Consequently, if we are allowing the above procedure to get adopted then certain criterion must be there for the mediator to qualify. A mediator must be a person who possesses specialised skills and expertise in family and matrimonial field. He must hold experience in dealing with the principle of compromise in order to facilitate the session of mediation more effectively.

As mandatory mediation holds tremendous potential, it can surely play a significant role in decreasing the burden of the court with an effective means of resolving disputes. The “opt-out” method previously had been effective in attaining the desired results and the same can be expected in the family conflicts as well. Keeping in mind

the quantum of cases yet to be decided, this pre-mediation could be a great course of action.

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EFFECTIVENESS OF MEDIATION IN FAMILY DISPUTES



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“Don't let a Little Dispute Injure a Great Relationship.”- Dalai Lama

Consult a third person when it comes to family dispute as they can give you a better solution or help in settling the dispute with this saying something called as a

mediator was introduced in our society. Mediator is a person (third person) who helps the parties to resolve the dispute between them with a mutual consult and the process of doing this is known as mediation.

Dispute takes place in every family either a joint or nuclear one and the reason for this could be many but the way to resolve this dispute is new that the court is ordering to go for a mediation. Nowadays the major of the family law cases, or dispute cases are resolved by the mediation process. Looking in the terms of legal aspects to resolution of family disputes through mediation it is mentioned under section 5 of Family Courts Act of 1984 provides a provision for the government to require the Social Welfare Organization to hold the family court to arrive at a settlement.^[1] Whereas section 6 of this act provides that person has a right to appoint for personal counsellors in case of family dispute as the family matters are very sensitive matters to handle.

Mediation is an effective process to settle any family dispute it not only

saves the time of the court but also makes it easier for the parties to resolve and settle the dispute.

Few of its major effectiveness are listed below:

Flexibility: This process is a very convenient process where the parties along with the mediator decides the time and place where they can talk freely and come to a certain conclusion.

Communication: Mediation provides a better way of communicating with each other and dealing with the dispute. The process which helps the parties to understand themselves and talk to opposing party and come out with a proper and a valid outcome.

Privacy: It is a private and a confidential process where the parties can come out freely and discuss about the problems between them due to which they are taking this kind of discussion and in want a guidance from a person who can support or guide them in their discussion or resolves their problem which is not basically possible in the normal court proceeding.

Cost and Speed: Increase in the number of cases is also increasing the cost of providing justice and taking a lot of time to conclude. On the other hand, mediation is a process which provides a speedy solution to the dispute.

Many cases are there in family law where court ordered for the mediation process in the case of Mohd. Mushtaq Ahmad v. State, the wife filed a case against her husband for divorce where she also filed a F.I.R under section 498-A of IPC, the dispute was about the birth of girl child.^[2] The Karnataka High Court referred the matter for mediation process and try to resolve the case there itself.

In Manas Acharya v. State & Anr. Case, the court emphasised that the resolution reached by mediation is legal and accurate and that the decision reached during the mediation period is binding on all sides.^[3]

In Dr Jaya Sagade v. The State of Maharashtra, the Maharashtra Government issued a circular saying that a party may opt for mediation instead of moving to court.^[4]

Mediation is a new way to resolve the family disputes and as the time is passing people are moving towards this process and giving more preference to the mediation process to resolve the dispute. Mediation process is used almost in every sector to resolve the dispute as it is considered as the safest and fastest way of resolving the dispute. It is suggested that mediation process should be followed in case of family dispute as the matter is too sensitive and needs clear guidance and support to make pass any judgement regarding the dispute. It is one of the better ways to resolving the dispute as the major thing what people are considered in a family matter is that they are not able to share their problems in front of the third party but then mediator provides that assurance that it will remain within the four walls of the room and proper solution will be provided.

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MEDIATION IN DIVORCE CASES



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Justice Ritu Bahri, High Court of Punjab and Haryana, said that "If the concept of shared parenting is advised to the parents at the initial stage they will not have to travel for years in the court". This line can be set to be the cornerstone of the concept of mediation. Mediation is a settlement process which is done by a third party to resolve the issue between two parties. Nowadays the mediation process is very popular in the process of divorce. In which parties can solve their problem without going through a courtroom long process.

Reasons for Establishing Mediation and ADR centres

In 1993, the survey said that lots of children are facing devastating problems caused by the dispute between their parents and their litigation process for taking in divorce. The meeting was held between the Chief Justice of India, President, Prime

Minister, Chief Justice of all the States and Chief Minister of all the States on that issue, and they came up with the solution to establish the Alternative Dispute Resolution. We are cognizant that the litigation is a long process, and it affects the mental health of the child. The mediation is one of the sub- parts of Alternative Dispute Resolution.

It is done in two different ways: "Mediation through court" and "Private Mediation". In Private Mediation, a court or public member provides free service to resolve the dispute. But on the other hand, Section 89 of the Civil Procedure Code, 1908 deals with the "Mediation through Court". India legislation provided as with certain laws which facilitates the Mediation process.

Section 23 of the Hindu Marriage Act and section 34 of Special Marriage Act provide an option to reconciliation at first instance in divorce cases.

Mediation is the most preferred way of obtaining for divorce. In the mediation process it takes a maximum of 60 days to solve or settle the case but if it isn't completed within 60 days. In some

cases, when a dispute is close to settlement, the parties can ask for extension of time period, if they are not yet satisfied. It shows that it doesn't consume more time like a courtroom. The cost spent in the mediation process is less than 50 % of the litigation process and sometimes it's done at free of cost. It is a flexible procedure. In other words, we can say it's a neutral process because the matter is assisted by a neutral person(s) who helps in resolving the problem.

The first mediation centre was established in August 2005 in Tis Mazism court of Delhi. Presently, there are 6 mediation centres in Delhi. According to a survey of mediation centres in Delhi, 1.3 lakhs out of 2.1 lakhs were settled by the said process. The problem that they face is that they cannot reach and have no power to give summon to other parties.

There are certain states which provide data or surveys through the Mediation Centre on the Divorce. Data opts from the Chhattisgarh Mediation centre shows as the period between January

2019 to December 2020 is that 1159 cases out of 3941 divorce cases solved through the mediation process. Divorce cases are successfully resolved. Gradually ,50% of cases are resolved through Mediation. According to the Statistical data of Bangalore report show that cases increase 20,000 to 30,000 cases

According to the National Judicial Data Grid, there are 4.6 crores cases pending in the court at different levels. To reduce the decongestion of the case from the court we have established the Mediation Centre. Now there are 39000 Mediation Centres which are set up by the Mediation and Conciliation Project Committee. At this moment 80% of Matrimonial dispute cases are pragmatic resolve the dispute. In the Jharkhand Legal service Authority mention that 78 cases out of 200 cases are resolved or reunited the couple by the mediation law. It works as a negotiation process between the couple. The mediator from the Jharkhand Legal service Authority, L. K. Giri stated that "Clash of ego is the main reason in many disputes. There is a breakdown of communication between the couple. It

gives pleasure when we are able to reunite couples after counselling. However, in a number of cases the couple agree to live separately". Lots of couples have been reunited through the mediation which helps them garland and give guidance for their married life.

THE ROLE OF MEDIATION IN DISPUTE RESOLUTION



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There's been recent rush of petitions for divorce or judicial separation before the courts of India. For a country that refers to marriage as a sacrament, court proceedings seem to be taking a toll for families who may not feel comfortable discussing the nitty-gritties of their unsuccessful married life before the bench. Specially with the overwhelming number of cases these cases, the court is suffering from a sever backlog. Each proceeding takes longer and the emotional turmoil that the parties involving children custody must go

through makes us question the process of the legal system. This is an area for alternate dispute resolution to save the day. With techniques such as mediation or conciliation, parties are much more at ease to be discussing the insights of their problem at hand and more opening to listening to the opposition whereas in the court, things tend to get a little defensive when one party speaks something against the other before the judge.

Existing situation

Nowadays, for a large proportion of adults and children, marital and family relationships are neither direct nor stable. According to recent studies, 13.8 million children in the United States ^[1], or 25% of those under the age of eighteen, live with only one parent, while another 5 million children in two-parent households live with a biological parent and a stepparent. And it's a safe bet that 0.5 of all marriages will end in divorce. People prefer to file divorce suits in court, which takes a long time because there are so many cases pending in the courts.

What is mediation?

Mediation is an unofficial dispute resolution process facilitated by a qualified third party known as a mediator. Mediation brings two parties together to clear up misunderstandings, address concerns, and reach a negotiated settlement. The procedure is entirely voluntary. During the mediation, each party will present their point of view on the matter, and the mediator will collaborate with each side to try to reach an agreement. The mediator can show his or her observations and a better solution to the issue at the final stage.

Unlike arbitration, the mediation process is non-binding; that is, the mediator doesn't really enforce a decision on the parties, but instead attempts to deliver a solution that is satisfactory to both parties.

Why ADR?

There are divorce petitions which roots from causes of dowry, domestic violence and other such grave matters which bound to be brought before the

law. However, with more awareness about this concept, young couples who tend to lose their patience in this partnership of marriage wants to go for divorce on grounds of 'incompatibility'. This is a trend more caught up in the west nevertheless, its influence in India has already gathered momentum.^[1] With court proceedings trying to decide on such matters seem to be unreasonable when there are grievous issues at hand to be determined. Not underestimating the gravity of such cases although one has to have the sense to draw a distinction between such cases of divorces and that of involving crimes such as domestic violence or cruelty.

As an alternate dispute resolution often resolves the matter by pacifying both parties, this mechanism is well suited to uphold the sanctity of the marriage. The mechanism offers the chance to the parties to reconcile their differences specially those cases that have children involved.

Cons of such practice

This article is not aimed at just pointing out the advantages of mediation but also

takes a deep look into why it might not be the resolution couples prefer. Despite widespread support for divorce mediation, there are some drawbacks. Divorce mediation may not be acceptable to both spouses involved in the process. It has several drawbacks, including the fact that the opposing spouse may refuse to cooperate, and you cannot force him or her to. The opposing party may attempt to assert dominance over you, in which case a court lawyer can only compensate for the imbalance.

The opposing spouse may frighten or threaten you, and once a spouse is concerned about his or her personal safety, participation interest drops dramatically.

Conclusion

Alternate dispute resolution is a mere way of helping the traditional court system to relax and take some load off it. It is in no way undermining the court or the parties' desire to go for a lawsuit. The family court law also allows the court to seek different modes of peaceful coexistence between couples, such as mediation, which could lead in couples

reconciling or parting ways on amicable terms by mutual consent. If the couple drops their acrimonious charges as a result of the mediation, and six months have passed in the meantime, the family court cannot insist on another six months before granting divorce by mutual consent.

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ONLINE MEDIATION: A NEW BEGINNING IN THE FIELD OF ADR



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The year of 2020 brought an enormous amount of change in the human lifestyle that no one predicted. The corona virus spread around the world at a rapid rate and soon it was declared as a pandemic by WHO. The whole world witnessed lockdown; and all day-to-day activities were affected by it. Work from home is adopted by most of the companies and

institutions and soon Zoom, WebEx, Microsoft Teams become the new office space, and this continues till today as well. The pandemic also effected the dispute resolution mechanism across the globe. Mediation process also begin with online sessions.

Online Mediation

The concept of online mediation is not new to us, in late 1990s, various start-ups, began offering e-mediation or online-mediation services to common people and different organizations. The companies developed a group of trained online mediators who they would allocate to facilitate online dispute resolution, mainly through e-mail or other platforms. This service is available across the world.

Now, the mediation services are not only through emails but video calls and meetings on various platforms. Covid-19 not only changed our healthcare but our work lifestyle too.

Protocols of Online mediation

In the pandemic, which made people sit at home for various weeks increased the

conflicts among them which is why online dispute resolution (ODR) emerges. Mediation plays an important role in resolving disputes outside courtroom which also provides a cost-effective, speedy recovery and gives an amicable solution to the parties. It has become an effective alternative to litigation. Even virtually, the role of online mediation is to bring the parties together and resolve the conflicts among them.

In online mediation, the role of mediator enhances as it could be complex to make the parties comfortable in the virtual environment. For this the mediator needs to know the inside out of the online medium he chooses for the mediation session. So, that he could familiarise with the technological features and make the parties at their ease. He can initiate small chats to ease the parties' nerves while waiting for all the participants to join.

The protocols that are to be followed should be discussed with the parties beforehand. Explaining them how to download the platform, providing them

with the password and link for the session, how the session would go on, sending out to each party the consent letters to officially agree on mediation online and its terms, reminding them about the ethics of the session and making sure the parties do not suffer from any technical glitch. To make sure the parties reach amicable solution during online mediation the mediator needs to inform the parties about the tools which help them to find a solution, like whiteboard for mind mapping ideas, screen-sharing access and breakout-sessions for caucus.

If a final decision is reached, then he should send the parties a mutual agreement to sign through E-signature. Organising a productive and efficient communication between the parties should be the focus of the mediator, whether it's an online or offline medium.

Advantages and Disadvantages of Online Mediation

There are various benefits of online mediation, it helps in more issues being

resolved and more satisfied parties.

These are as follows:

1. **Convenient:** Virtual-mediation is more convenient than actual mediation as the parties is in their own suitable environment and it's easier to make them comfortable.
2. **Breakout-rooms:** One of the benefits of virtual mediation is breakout-rooms, in the traditional mediation the parties were needed to leave the room during caucus, which might impact their feelings but in virtual-mediation the other party can call for caucus without hurting the other party.
3. **Dominant Personalities:** In online-mediation, mediator can convey more via email instead of a traditional mediation, the more dominant party cannot take-over the mediation for their own self-serving purposes.
4. **Long Distance:** The distance in online-mediation does not affect the process, the parties can be around different corner of the world and still be able to resolve their conflicts.
5. **Emotions:** In online-mediation emotions can be controlled as to

control the emotions in being the same room as other party can be emotionally challenging.

With all these benefits, the virtual-mediation still has certain structural challenges like digital-literacy gap among the parties, accessibility of electronic-devices, parties not trusting ODR, their concern about privacy and confidentiality etc.

Conclusion

Despite the challenges that comes with online-mediation, it's great tool for dispute-resolution in the long-run. The scope of it is increasing in India, with increase in digital-literacy, and improving the digital information it can become the future of dispute-resolution. As covid-19 imposed physical-restrictions, it accelerated the digital-growth and transformation in all sectors. Even after this pandemic, virtual mediation will continue along with traditional mediation and help the parties to resolve conflicts in cost-effective and amicable way.

DEVELOPMENT OF ADR AND ADOPTION OF MEDIATION TO RESOLVE FAMILY ISSUES



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Alternative Dispute Resolution is a mechanism that ideally refers to the methods that lead to resolving disputes without the involvement of the national courts. Mediation is one of the recognized forms of alternative dispute resolution. It is a method under which a neutral third party, namely the conciliator or mediator, aims at the settlement of the risen dispute through mutual consensus.

Speaking of mediation in the Indian context, it traces way back to the Vedic times. The earliest form of disquisition found in this context is the Bhradarnayaka Upanishad, which mentions the earliest formed arbitral bodies; the Puga, the Sreni, the Kula. The principles of mediation such as parties' voluntary participation,

confidentiality clause, neutral third party as a mediator, settlement through mutual consensus, and time-friendly, make the parties' dispute choose mediation as a mode of resolution over litigation. As by fact, it is observed that matters involving family and society are some matters which can require a lot of patience, and also the motive is to reach an agreement which shall be beneficial for both the parties and mediation through this is reducing weights from the judiciary. The process of mediation is a constructive path and gives the parties in dispute the opportunity for personal development. Besides being cost-efficient, the fundamentals of voluntariness and the techniques used for settlements drive the parties towards the idea of substantive justice.

When family relations are concerned the priority of the family members stays as the peace and harmony between themselves. The mediator by means of active communication between the parties addressing the set issues aids the parties to approach a settlement that benefits both. B. Robert, in his article, states that "Another reason to prefer

mediation over court proceeding may be confidentiality and the wish to preserve a good relationship with the other part", the above-stated quality is what is most required in family conflicts.

Mediation is not a natural continuation of legal practice since it allows for a larger definition of conflict as well as a more comprehensive approach to its settlement. Thereof, in recent trends, it has been seen that some mediators have to offer a 'therapeutic' element to mediation by the means of encouragement. The mediator sensibly supports the parties to address their underlying conflicts, so that they can work on their relationship wisely. Family mediation, in general, pays close attention to non-legal emotional and relational concerns, making it more than merely a conflict resolution approach. In the context of family disputes, mediation can lead to reconciliation and reunification of both parties. The intricacy of issues including child custody, property distribution, and future relationships, as well as the uncertainty and distraction generated

by family misunderstanding, are frequently mentioned as justifications for a more activist mediation role. Especially in family disputes, which have a very specific emotional aspect, the mediator's professionalism should be indisputable and unquestionable, since neutrality plays a huge role, and his own life experience should not alter his attitude toward the parties and impair the communication process.

There are two general styles of practicing mediation: joint sessions and caucus. Under joint sessions, both the parties hear out each other's views and take on the arose dispute, whereas, under caucus, a private meeting is conducted between the mediator and one of the parties in dispute which takes place after hearing the other party. The goal of the "caucus" session is to unearth topics that the parties were unwilling to debate in the joint session. Taking into consideration the emotional side of family disputes, which frequently stops the parties from analyzing the issue objectively and reaching an agreement, caucus appears to be a more successful kind of mediation procedure.

In a family law dispute, mediation is a safe, informal method that also protects the parties' anonymity. Mediation in family law conflicts is becoming increasingly common. The parties not only get the option to try to resolve their conflict via dialogue, but they also gain the opinion of a mediator who is more familiar with such instances. It also guarantees that parties are satisfied when mediators listen to their perspectives and strive to achieve a solution that is acceptable to both of them. Their lawyer can provide them with a second view. Furthermore, if the parties are dissatisfied with the outcome of mediation, they always have the option of contacting the Court.

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LEGAL ASPECTS OF MEDIATION GOVERNING FAMILY DISPUTES



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Mediation is one of the alternative dispute resolution mechanisms that facilitate the disputant parties to arrive at a final settlement in a sustainable and self-determined way. The benefits of the mediation are constructive and involve the prospect of personal development and social growth for the parties to the conflict. Moreover, mediation holds the promise of cost-efficient and faster dispute resolution compared with other methods.

In disputes concerning family and other marital conflicts, mediation is the best alternative tool of settlement mechanism. This mechanism seems to be a non-coercive and consensual

mechanism to settle disputes between the parties. Adopting mediation not only saves time but also reduces the likelihood of negative feelings or alienated relationships that may occur as a result of the parties' choice to go to court.

Legal provisions concerning the resolution of family disputes are provided in Section 5 of the Family Courts Act of 1984, which makes the Government in establishing a family court to decide the matters via mediation. Counselors are appointed permanently under Section 6 of FCA to promote family settlements. Further, Section 9 of the FCA and Section 89 and Order XXXII-A of the Civil Procedure Code of 1908 ('CPC') require the court to provide an equal opportunity to a proposed resolution before proceeding with adjudication. Additionally, Section 23 of the Hindu Marriage Act of 1955 ('HMA') stresses upon judge's effort at reconciliation.

Generally, in a family or marital-related dispute, the disputants may find it difficult to open up in front of a

mediator as issues may be very personal to them, and they may not feel comfortable enough to discuss their grievances openly. Here, it becomes the duty of the mediator to ensure that the parties to the dispute speak up about their problems.

The mediator's role is to elicit facts from both contending parties and reformulate them in a clearer and expressed manner, allowing the parties to specialise in the areas of difficulty of conflict rather than simply beating around the bush, allowing the parties to come up with creative solutions that would be impossible to come up with in a third-party imposed legal solution. The mediator can also speak with the disputing parties separately, without the other party present, so that the parties can clearly explain their areas of agreement and disagreement to the mediator. Because marital disputes are much different from other disputes due to the presence of certain factors such as feelings, personal liabilities, responsibilities, sentiments, and thus the institution of marriage, mediation in matrimonial disputes differs from

mediation in commercial or property disputes.

The mediator must affirm that he does not, under any circumstances, disregard the emotional aspects of the disputes that have led to the current disagreement. Because marriage problems are more a question of feeling than of reason or truth, he must be concerned for both parties' pleasure and fulfillment. His goal is very clear: to find a settlement to the dispute(s) in issue without causing the least amount of or minimal amount of damage to the disputants. The mediator must act as a counselor or conciliator, guiding the parties to a mutually accepted solution to the dispute/s that would hopefully result in long-term peace between the parties. The mediator must counsel the parties and use diplomatic means to persuade them to focus on the benefits of a suggested solution. Either of the two parties or the mediator himself/herself will provide a solution to the disputed issues. A mediator's overall goal would be to continually bridge the gaps between the suggested solutions from

both sides to reach a compromise that would satisfy both parties to the conflict.

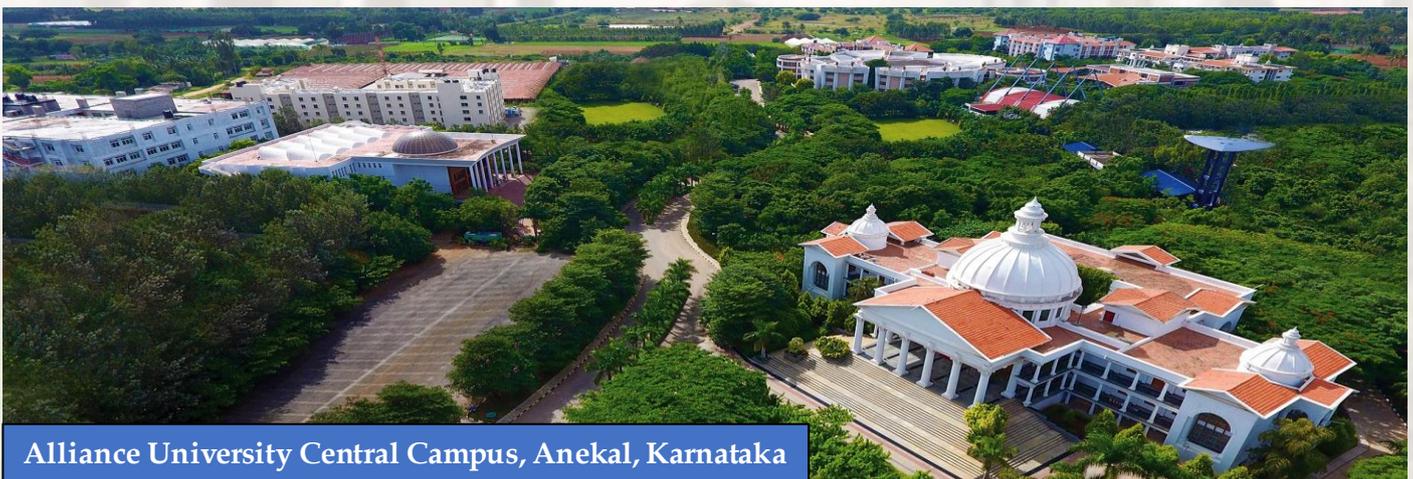
Conclusion

Mediation can be a discreet, informal procedure in a family law dispute that always maintains the parties' anonymity. In family law matters, mediation is becoming increasingly popular. The parties can not only discuss to resolve their differences, but they can also seek help from a mediator who is better familiar with certain cases. It also implies that both parties are satisfied as mediators reply to their points of view and attempt to reach an agreement that is agreeable to all or some of them.

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UPCOMING EVENTS IN ADR

ACADR Essay Writing Competition, 2022 on Judicial Intervention in ADR

Alliance Centre for Alternate Dispute Resolution (ACADR) is organizing an Essay Writing Competition, 2022 focusing on establishing and promoting writing and research skills.

Topic of the Competition: "Impact of Judicial Intervention in the Field of ADR is a Boon or a Bane"

Eligibility: All students pursuing undergraduate (three/ five year) or post-graduate law degrees from any law school/ university/ college recognized by the Bar Council of India are eligible to participate in the Competition.

Submission Guidelines: Word limit: 1000-1200 words.

The file name must consist only of the Name of the Author(s) in Microsoft Word format.

Citation style: Uniform style of citation should be followed throughout the essay.

Submission Procedure: All submissions should be sent via email to acdr@alliance.edu.in.

ACADR Guest Lecture on Resolving Commercial Disputes through Lok Adalat

The ACADR is organising a virtual session on "Resolving Commercial Disputes through Lok Adalat " for Students and faculties of Alliance University, Bengaluru. It is scheduled on 23rd of April 2022 at 14.30 IST. There will be no registration fee for the students of Alliance University.

Arbitrators: Youth trumps experience (April 08, 2022)

The ICC International Court of Arbitration and ICC Singapore are organising a Virtual Debate "Arbitrators: Youth trumps experience". Students, young practitioners, practitioners interested in arbitration can attend this event. It is scheduled on 08th April 2022 at 13.30 IST (16.00 Singapore Time). For more details and registration click [here](#). No registration fees.

3rd International Conference on Mediation (April 09-10, 2022)

The Faculty of Law, & Delhi School of Public Policy & Governance, Institution of Eminence, University of Delhi in association with Mediation and Conciliation Project Committee, Supreme Court of India is organising a 3rd International Conference on Mediation on 9th-10th April, 2022 through a virtual mode.

The organizers invite Judges, Faculty members, Advocates, Research scholars, Entrepreneurs, Students, Faculty members, and other professionals to submit papers.

Last Date of Registration for Conference: April 07, 2022.

Fees:

- Registration for students and research scholars Rs. 500
- Registration for academicians Rs. 1000
- Registration for advocates, law firms and other professionals Rs. 1500

- Registration for Foreign Scholar and Foreign Academicians: \$50

For more details click [here](#).

Participants' can register for conference by clicking [here](#).

Online WIPO Mediation and Arbitration Workshop (June 08-10, 2022)

The WIPO Arbitration and Mediation Center organises Online WIPO Mediation and Arbitration Workshop. The Workshop aims to promote the understanding of ADR options for the resolution of intellectual property (IP) and technology disputes. The Workshop is designed for mediators, arbitration and IP lawyers, in-house counsel, patent and trademark attorneys, and business professionals wishing to familiarize themselves with international mediation and arbitration procedures, or to receive training as neutrals or party representatives.

The Workshop will cover mediation and arbitration procedures, with particular reference to the practical case application of the WIPO Mediation,

Arbitration and Expedited Arbitration Rules, an industry view on dispute resolution, keys to drafting effective dispute resolution clauses, ADR for FRAND Disputes, and a look at the move to online meetings and hearings. The presentation faculty includes WIPO mediators and arbitrators, in-house counsel, and WIPO Arbitration and Mediation Center professionals, all experienced in the conduct of international ADR procedures.

For more details click [here](#).

Participants can register for workshop [here](#).

For any workshop related inquiries, contact arbiter.mail@wipo.int.

STUDENT TESTIMONIALS



Oleina Bhattacharya

Student Member, ACADR

As an aspiring lawyer, I am aware of how important ADR mechanisms will be in the coming years. ACADR stood out to me as it offered the opportunity to learn about the fundamentals of this

field hands on. I would advise those to join the ACADR committee, who want to build a healthy foundation in resolving conflicts and contribute along the way.



Deepanshi Kapoor

Student Member, ACADR

The significance of Alternate Dispute Resolution stems from the need to avoid cumbersome and prolonged litigations. ADR has thus, evolved as a sought-after alternative across the globe. The Alliance Centre for Alternate Dispute Resolution is a great initiative as it not only provides opportunities for research and publications but also ensures a holistic exposure by organizing various informative events as well. As a student member of the ACADR, I feel really elated at the launch of the current edition of the ACADR Newsletter 2022, which delves into the current and emerging trends in the field of ADR.

ALLIANCE CATCHING MOMENTS

Client Counselling and Negotiation Competition conducted by MIT World Peace University, Pune (February 25-26, 2022)

Alliance School of Law students of 4th year BBA / BA LLB (Hons.) 2018-23 Batch won the competitions named Client Counselling and Negotiation conducted on February 25-26, 2022 by MIT World Peace University, Pune.



(Left to Right: Naman Jain, Sakshi Nathani, Sai Shri Nivas Reddy)

Sakshi Nathani, Naman Jain, Sai Shri Nivas Reddy, and Pratiksha Gautam represented Alliance School of Law in the Client Counselling and Negotiation Competition. The team was guided by Dr. Abhishek Srivastava (Assistant Professor, Alliance School of Law).

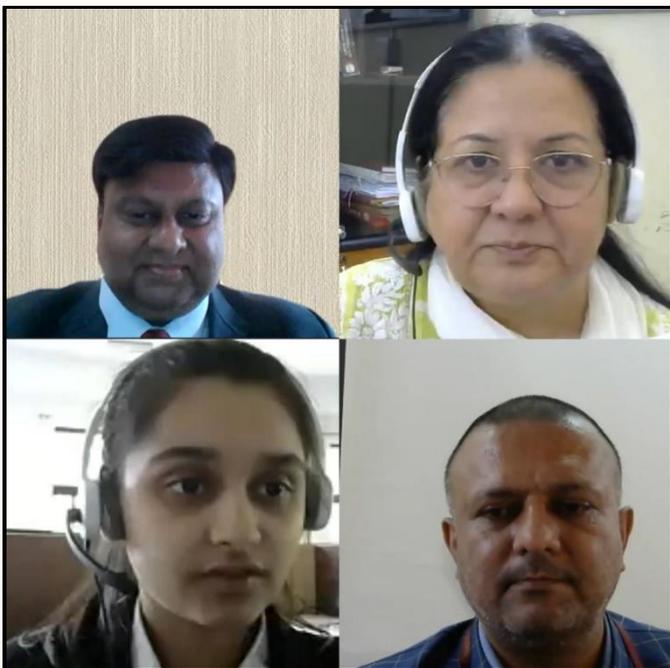


(Left to Right: Sakshi Nathani, Pratiksha Gautam)

Congratulations Team!

ACADR Organised a Webinar: "Mediation Tools and Techniques- A force to reckon with" (February 26, 2022)

The ACADR invited Adv. Shri. K.L. Srinivasa, an eminent mediator as the speaker. He was appointed as a mediator by the Hon'ble High Court of Karnataka, at the Bangalore Mediation Centre, Bangalore, on 21st March 2009. With over 1000 successful mediation matters and a vast experience in this realm, the ACADR was fortunate to have organized an interactive webinar session with him.



The esteemed guest speaker shared his experience and knowledge to the participants of the webinar to further their knowledge on the tools present in Mediation. He put an emphasis on Section 89 of the Code of Civil Procedure, 1908 and on the other he talked about the Mediation Bill, 2021 which is going to be given a legal status. The speaker also discussed few judgements by various Courts in India along with the ratio behind such decisions. This offered an insight into the history as well as the current situation of Mediation along with its evolution.

Further, he divulged into the difference between court, arbitration, and

mediation proceedings. The speaker had prepared PowerPoint slides for the sole reason of the students and faculties of Alliance School of Law to be enlightened with the practical aspects of mediation in Karnataka.



(Guest Speaker Adv. Shri. K.L. Srinivasa)

The highlight of the webinar was when Adv. K.L. Srinivasa brought about the Rule 20 of Karnataka Civil Procedure (Mediation) Rules, 2006 to elucidate the confidentiality in Mediation. This helped the participants in understanding the specific rules provided from state-to-state basis and the applicability of the same from theory to practical experience of the mediator. Recounting his experiences, the speaker shed a light upon the constitutional aspect of mediation and the importance of understanding things from the perspective of both parties but remaining unbiased.

**International Conference on Law and Social Transformation (ICLS 2022)
Organised by Alliance School of Law
(March 26, 2022)**

International Conference on Law and Social Transformation (ICLS - 2022) was organized by the Alliance School of Law on 26th March 2022.



The conference witnessed over 100 National & International participants from reputed institutions. In all over 80 research papers were presented and several dignitaries deliberated on various legal issues.



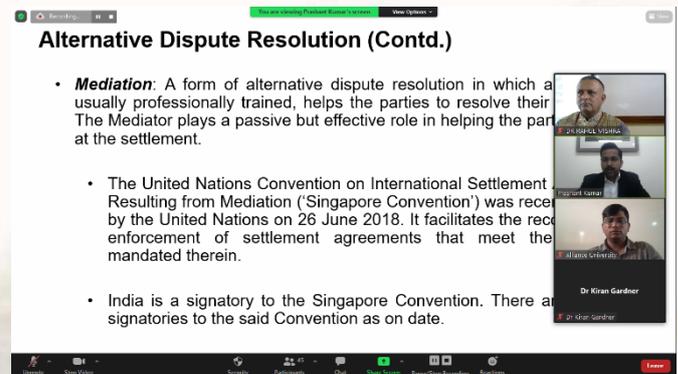


ACADR Organised a Webinar on “Career Progression in Commercial Arbitration: Opportunities, Challenges & Roles” (March 30, 2022)

Alliance Centre for Alternate Dispute Resolution, Alliance School of Law, Alliance University, Bangalore organized a thought-provoking webinar on the theme “Career Progression in Commercial Arbitration: Opportunities, Challenges & Roles” on 30th of March 2022 through Zoom platform thereby providing all participants golden opportunity to understand and assimilate the practices in terms of tools and procedures pertaining to

ADR related areas of research and professional domain.

Mr. Prashant Kumar started his sessions by being decisive and clear while introducing the topic of webinar to the audience. He spoke about the utility and usefulness of ADR mechanisms while dealing with the commercial matters with special focus on Commercial Arbitration processes and maneuvers. The career opportunities in the said domain were also analysed and spoken about thereby sensitizing the students about this practice at the national as well as international level.



The substantive and procedural aspects of Arbitration were also deciphered and were justified by the speaker by citing case studies. The speaker also shared his experiences of dealing with arbitration cases. The students were all ears throughout the session. The speaker also narrated the deep sighted technicalities so involved in the arbitration process.

ACADR TEAM



Prof. (Dr.) Kiran D. Gardner
Dean, Alliance School of Law,
Alliance University, Bengaluru



Dr. Rahul Mishra
Director, ACADR,
Alliance School of Law, Alliance
University, Bengaluru



Dr. Aisha Sharfi
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Mr. Vishal Ranaware
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