Himachal Pradesh National Law University, Shimla (India)
HPNLU Law Journal

Volume IV *ISSN: 2582-8533* *April 2023-March 2024*

Volume IV (2023)

THE GLOBAL SHIFT: How Cross-Cultural Mediation is Transforming Conflict Resolution

Anisha Sharma

Contents

Volume IV | *ISSN: 2582-8533* | *April 2023-March 2024*

Articles *Page*

1. LAW AS SOCIAL RULES: A Descriptive Evaluation of Hart's *Concept of Law* for Contemporary Teaching
Chanchal Kumar Singh, Mritunjay Kumar 1

2. FROM WHANGANUI TO GANGA: A Study on Environmental Personhood
Naman Kumar Sharma & Priyesh Pathak 36

3. ONLINE MARKETPLACE LIABILITY: Safe Harbour and Fallback Liability in India
Ashreet Acharya 50

4. ANTI-DISCRIMINATION LAWS IN INDIA: Political Illusions and Legal Myths
Santosh Kumar Sharma 68

5. ASPECTS OF SECULARISM UNDER INDIAN CONSTITUTION: A Critical Perspective
Harsha Sharma & Srikant Singh 85

Notes & Comments

6. THE RESTRICTIVE-LIBERAL DILEMMA: A Comment on *XYZ* v. *The Dean of B.J. Government Medical College*
Parul Bhalla 101

7. CRYPTO-TECHNOLOGY MEETS REAL ESTATE: Navigating Legal Frontiers of Real Estate Tokenization in India
Srijan Tripathi 118

8. ARBITER OF RESILIENCE: The Crossroads of Global Insolvency
Megha Bhartiya & Sneha Bharti 134

9. *DHARMOPRUDENCE*, NATURE OF LAW & MORALITY
Aastha Naresh Kohli & Dhananjay Singh 147

10. THE GLOBAL SHIFT: How Cross-Cultural Mediation is Transforming Conflict Resolution
Anisha Sharma 164

11. PROMOTING 'AI' INCLUSIVITY IN INDIA: A Progressive Legal Model to Mitigate Bias
Titiksha Narkhede 193

THE GLOBAL SHIFT:
How Cross-Cultural Mediation is Transforming Conflict Resolution

Anisha Sharma[*]

[Abstract: *Modern businesses, alongside the legal field, show acceptance of mediation value by adopting international legal instruments, including the Singapore Convention on Mediation (2019) and the UNCITRAL Model Law on Mediation, because these tools establish global standards for enforcing mediated agreements. The legal systems of India, along with multiple other international governments, adopt mediation as a primary dispute resolution procedure to achieve shorter disputes and decrease court delay times. Through cross-cultural mediation, transformative solutions emerge to solve linguistic conflicts, social viewpoints, and ideological differences between parties. This paper examines the modern mediation approaches in Indian practices and worldwide developments of cross-cultural mediation during global social transitions.*]

I

Introduction

Human interaction naturally creates conflicts ranging from interpersonal issues to international disputes. History shows that organisations have used four main approaches to settle conflicts: litigation, arbitration, negotiation, and mediation. Mediation is an adaptable procedure that delivers successful outcomes during dispute resolution. Mediation has always proven to be better than litigation, which leads to a win-lose outcome because mediation leads to mutual understanding and cooperative dispute management. Mediators are always neutral and come between disputing parties to facilitate discussions between parties in conflict to reach a voluntary settlement. Mediators play a different role from judges or arbitrators as they refrain from imposing decisions but help participants understand each other better through point clarification and solution discovery. The combination of confidentiality, low costs, and advantageous relationship preservation establishes mediation as the preferred choice

[*] Advocate, B.B.A. LL.B. (Hons.); LL.M., (Alternative Dispute Resolution). *Email:* sharmaanisha453@gmail.com

for social and business disputes. The emergence of cross-cultural mediation is a vital method to solve conflicts due to the rise of globalisation and international contact because specific cultural factors determine communication rules, arbitration procedures, and settlement procedures. Cross-cultural mediation, diplomatic delegations, and situations involving migration conflicts and global business operations require practitioners with cultural intelligence to manage international perspectives. Modern businesses, alongside the legal field, show acceptance of mediation value by adopting international legal instruments, including the Singapore Convention on Mediation (2019) and the UNCITRAL Model Law on Mediation, because these tools establish global standards for enforcing mediated agreements. The legal systems of India, along with multiple other international governments, adopt mediation as a primary dispute resolution procedure to achieve shorter disputes and decrease court delay times. Through cross-cultural mediation, transformative solutions emerge to solve linguistic conflicts, social viewpoints, and ideological differences between parties. This paper examines the modern mediation approaches in Indian practices and worldwide developments of cross-cultural mediation during global social transitions.

II

Understanding Cross-Cultural Mediation

Conflict happens naturally and is part of human life in all cultures. Different cultures have different ways of dealing with conflict. As the world becomes more connected, finding new ways to resolve conflict is crucial. Many tools are available, from personal to international levels, to help solve conflicts. Learning from different cultural approaches to conflict resolution can improve relationships. Western scholars define conflict as a struggle between two or more people with opposing goals or limited resources. While this definition applies globally, reactions to conflict and resolutions differ across cultures. Many experts emphasise neutrality, fairness, and the neutral party's role in conflict resolution.[1] However, some scholars argue that these ideas do not always work in every culture. Conflict resolution practitioners face a challenge because they must intervene and stay neutral. This creates a contradiction since guiding conflict resolution requires them to step back and let the parties decide the outcome. Without a neutral third party, finding logical and fair solutions becomes difficult. The debate around Western approaches to conflict resolution continues. Some believe the Western model is too rigid and unsuitable for all cultures. Others argue that conflict naturally follows a cycle and must be addressed within that structure. The discussion raises the question of whether there is a better way to resolve conflicts beyond Western practices.

---

[1] John Barkai, *What's a Cross-Cultural Mediator to do-A Low-Context Solution for a High-Context Problem* 10 CARDOZO J. CONFLICT RESOL. 43 (2008).

People often assume that collectivist cultures, which contrast with Western individualism, would offer better ways to resolve conflicts. However, communication styles vary from "low-context" to "high-context" cultures. In this spectrum, spoken communication is considered low-context, while body language and indirect cues are high-context. This does not mean one method is better, but both can be ineffective in certain situations. Combining different communication approaches leads to the creation of a cross-cultural conflict resolution model. This approach integrates Alternative Dispute Resolution (ADR) techniques to address various communication challenges.[2] Low-context communication often misses nuance, which can lead to misunderstandings. ADR practitioners focus on changing how conflicting parties understand their disputes. The framework of ADR methods prioritises practitioner perspectives over the points of view of actual parties involved in disputes. By infusing institutions with established biases, ADR processes compromise their ability to remain neutral and impartial. When parties use subjective dialogue to express their emotions and personal views, it supports their ability to determine resolutions independently during conflicts.

Western conflict resolution uses structured dialogue but struggles with subjective views. ADR blends communication and mediation for flexible strategies. Western mediation ignores emotions, blocking real needs. Removing stories weakens solutions and social analysis. Mediation reflects economic and colonial interests, neglecting cultures. Cultural ignorance and lack of training reduce effectiveness. Indigenous methods are often rejected. Traditional systems blend customs for peace, while Western ADR focuses on individuals over community healing. Money-driven goals weaken conflict resolution, making relationships and progress less critical. Successful global conflict resolution needs the active implementation of traditional dispute resolution practices together.[3] This integrated system builds enhanced cultural understanding and higher sensitivity through anthropological and philosophical methods. Professional conflict resolution becomes simpler and yields better outcomes when practitioners unite the individualist style with the collectivist approach to conflict management. The approach allows practitioners to avoid misunderstandings while developing enduring peace strategies.

Society faces significant obstacles due to the nature of cultural diversity and its relations between cultures. Academic institutions and non-governmental organisations take the

---

[2] IOM, ONU MIGRATION, *Frameworks and good practices of intercultural mediation for migrant integration in Europe* (Sep. 2021) *available at:* h ps://eca.iom.int/sites/g/files/tmzbdl666/files/documents/Frameworks%20 and%20 good%20practices%20of%20intercultural%20mediation.pdf (last visited Jun. 10, 2025).

[3] UNITED NATIONS, *Guidance for effective mediation* (Sep. 2012) *available at:* h ps://peacemaker.un.org /sites/default/files/document/files/2022/09/guidanceeffectivemediationundpa2012english0 .pdf (last visited Jun. 10, 2025).

lead in teaching students how to resolve cultural conflicts between collectivistic and individualistic groups. These organisations employ cross-cultural approaches to assist populations as international migration for travel, education, and residence extends.[4] The organisations work to develop institutional frameworks that unify distinct cultural backgrounds through practices that strengthen tolerance, integration, and knowledge sharing. Neighbourhoods achieve conflict resolution through dialogue-supported reflective activities to create sustainable, peaceful solutions.

Conflict practitioners often rely on Western methods and fail to recognise the potential of non-Western approaches. Such a limited view hinders worldwide understanding and implementation of conflict resolution methods.[5] A more productive method requires adopting approaches from multiple cultural approaches because successful conflict mediation transcends geographic and cultural limitations. The world can achieve better mediation and reconciliation outcomes through greater awareness of diverse artistic practices. Experts have struggled to describe culture effectively while exploring its importance in conversation, dispute, and conflict resolution. Culture is understood through the dynamic interaction between behavioural and conceptual practices influencing human social interaction. Individual cultures present unique, complex aspects but avoid minimising cultural distinctions.

Using universal relativism to analyse cultural differences is ineffective. Power distance and individualism vs. collectivism may seem opposite but often overlap. Collectivists can have independence, and individuals can hold shared beliefs. Power shapes conflict resolution in societies.[6] Understanding power helps analyse Western and Eastern interactions. Social norms decide authority. Self-perceptions affect communication. Organisations should respect cultural ways. Acculturation leads to deeper cultural understanding. Western dispute methods often fail due to rigid rules and colonial influence.

The sole reliance on Western methods to resolve conflicts leads to errors in practice. Traditional methods require the inclusion of Indigenous techniques that both recognise differing cultures and empower conflicting groups. By enforcing Western models on conflicting groups, their ability to drive solutions is removed, and their distinct cultural heritage is disregarded. Western conflict resolution standards operate unsuccessfully since they neglect the appropriate adoption of indigenous cultural practices. Its ability

---

[4] E. Y. Chew *et.al.*, *Multiple intelligence and expatriate effectiveness: the mediating roles of cross-cultural adjustment* 32 INT'L J. HUM. RES. MGMT. 2856 (2021).

[5] K. Lucke & A. Rigaut, *Cultural issues in mediation* (2002) *available at:* s://www.no ingham.ac.uk/ research/groups/ctccs/projects/translating-cultures/documents/journals/cultural-issues-mediation.pdf (last visited Jun. 10, 2025).

[6] B. Rakovica & S. Ianovi , *Cultural mediation: An inclusive solution to help reduce the cultural* and *language barriers experienced by survivors of trafficking, available at:* h ps://www.criminaljusticealliance.org/wp-content/uploads/Hibiscus_Cultural-Mediation-Report_A4_Final_digital.pdf (last visited Jun. 10, 2025).

to be effective suffers when cultural understanding remains limited. Professionals who resolve conflicts have faced criticism because they maintain power positions, although they do not entirely understand the conflicts they attempt to resolve.[7] Unfixed tensions evolve into steadily increasing forms of conflict. From the Western perspective, indigenous cultures are treated as unique entities that stand apart from worldwide universal principles. From this standpoint, Western methodologies appear superior even though integrated methods provide more significant benefits.

Most importantly, western conflict resolution does not fully consider cultural diversity, social complexity, or communication challenges. A fairer system should include different conflict resolution methods. Some Western institutions allow indigenous practices within their legal structures. Indigenous methods focus on social ties, promoting community harmony. These approaches emphasise "sacred justice," which values apology, forgiveness, and reconciliation.[8] Social order is clearer when based on communal spiritual values. Blending these ideas with Western systems improves conflict resolution. Globally, indigenous methods often work better than Western strategies alone. Western legal systems lack cultural depth because traditions shape how conflicts are resolved. Sacred justice requires methods beyond secular and individualistic Western logic. Indigenous techniques enhance global conflict resolution. The Cross-Cultural Mediation Model combines different cultural dispute-resolution methods. It promotes emotional understanding through deep discussions. The first step builds personal understanding using structured communication. The second step encourages reflection through double-loop learning. Mediators adjust narratives to remove barriers. The third step creates a compromise by merging insights. Mediation balances relationships and future solutions.[9] By focusing on shared goals, people find better solutions. This method helps resolve cultural conflicts effectively.

Four steps are key to effective conflict resolution. The beginning of this process necessitates the validation of both conflict narratives and dispute definitions and problematic social norms. Parties must recognise how conflicts are presented and how narratives affect perspective formation. People gain insight into their conflict involvement and personal stakes through self-reflection. The analysis examines whether people can change their fixed viewpoints into interest-based reasoning. A progressive approach functions to modify the story elements toward eventual resolution. Future-building eliminates quick-fix approaches to create enduring solutions for long-term resolution. Both methods of defining resolution need to be determined during this step, and the specific steps necessary to accomplish it must be

---

[7] *Id*.

[8] C. Menkel-Meadow, *Cross-cultural disputes and mediator strategies* in THE ROUTLEDGE HANDBOOK OF INTERCULTURAL MEDIATION 30-42 (Dominic Busch, ed. 2022).

[9] WORLD TRADE ORGANIZATION, *Understanding on rules and procedures governing the settlement of disputes, available at:* h_ps://www.wto.org/english/tratop_e/dispu_e/dsu_e.htm (last visited Jun. 10, 2025).

identified. This method includes a systematic approach to implementing well-defined progressive measures for long-lasting resolution. One can redefine the nature of conflict within emerging perspectives by re-experiencing narratives with reorganisation. The process targets a transformative understanding of opposing sides through previous procedural work.

Mediators guide people through conflict resolution by helping them reflect and find key concerns. Through this reflection, they explore solutions and shift from rigid views to better understanding. A flexible, outcome-based approach emerges when both sides collaborate to create solutions.[10] Mediation allows individuals to understand different perspectives and plan for future cooperation. The double-loop learning process helps people analyse conflicts deeply and improve understanding. Before negotiations progress, both sides must be open and use cooperative methods. They change their conflict approach just like in early mediation. Mediation lessons help improve peacebuilding and conflict resolution. Conflicts are continuously reviewed to enhance future interactions. A layered analysis, like peeling an onion, uncovers the deep causes of conflict. Mediation corrects misunderstandings, leading to better communication and long-term solutions.

Conflict resolution needs teamwork between the mediator and those involved. The first step is a conversation, where the mediator listens to both sides. Validation follows, recognising emotions as key to resolving disputes. Group reflection helps people see how personal stories affect conflicts. Conciliation ensures solutions are emotionally sensitive and effective. Deconstruction breaks down conflict structures for better clarity. Discussions shape a shared narrative that includes all concerns somewhat. Future-building integrates healing and group unity. Mediation connects conflict strategies to long-term goals.[11] Instead of giving direct solutions, the mediator helps parties create their own framework. By working together, they rebuild relationships and prevent future violence. While peace may not be immediate, talking helps avoid further disputes. Communication and empathy lead to a peaceful future and stronger communities. Both parties accept a unified path ahead even though this development represents the most challenging obstacle they need to overcome. The participants jointly constructed a mutually acceptable plan. After reaching an agreement, both sides must identify the damage and losses from the conflict. Both parties must share their experience of suffering to accomplish real change through this process. The resulting transformation from conflict resolution may fail to produce enduring stability. The model provides essential tools and specific knowledge to help people resolve future disputes peacefully.

---

[10] H. Abramson, *International Dispute Resolution: Cross-Cultural* Dimensions *and Structuring Appropriate Processes* in BEYOND THE COURTROOM 918-21 (H. Abramson, ed. 2020).

[11] H. Abramson, *International Dispute Resolution: Cross-Cultural* Dimensions *and Structuring Appropriate Processes* in BEYOND THE COURTROOM 918-21 (H. Abramson, ed. 2020).

The model functions as a conflict resolution framework through alternative dispute methods but does not establish standardised protocols that transform disputes into business correspondences. Implementing indigenous conflict resolution techniques alongside Western approaches has become necessary because modern Western resolution methods are insufficient. Effective conflict resolution requires multiple developed methods that create peaceful settlements and avoid allowing unresolved problems.[12] The development of cultural knowledge combined with awareness is essential in resolving conflicts. Western solutions depict the conflict as an autonomous issue that prefers trade exchanges instead of emotional responses. The system bridges typical native resolution techniques with their cultural significance while providing support. Conflict resolution research must first recognise its present limited grasp of cultural subtleties before working to advance methods in this field. Awards of proficient training enable practitioners and theorists to develop their knowledge of distinct cultural viewpoints. The development of conflict resolution methods that benefit all participants will result from addressing communication differences.

III

Legal Frameworks Governing Cross-Cultural Mediation

Mediation laws determine dispute management through a collection of specific regulatory instructions that vary in scope and authority. The UNCITRAL Model Law on International Commercial Conciliation offers a framework for nations to create consistent mediation structures, ensuring fairness and clarity in conflict resolution.[13] The geographical and legal landscape modifies mediation practices to adapt to regional legal, cultural, and economic needs. The EU Directive on Mediation in Civil and Commercial Matters promotes mediation through national system-aligned practices.[14] By implementing laws, national governments enhance the legal status of mediation practices. Through their creation, mediation becomes more convenient for stakeholders and boasts enforceable legal status.

---

[12] *Id*.

[13] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE, Model Law on International Commercial Conciliation *with Guide to Enactment and Use available at:* h ps://uncitral.un.org/en/texts/ mediation/modellaw/commercial_conciliation (last visited Jun. 10, 2025).

[14] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment, available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135_Mediation_Directive-FINAL.pdf (last visited Jun. 10, 2025).

UNCITRAL Model Law on Mediation

Under UNCITRAL, mediation is the preferred method of resolving international business conflicts using amicable processes. In 1980, the organisation established its UNCITRAL Conciliation Rules, which were subsequently transformed into the UNCITRAL Mediation Rules in 2021. The UNCITRAL Model Law on Mediation outlines mediation dispute settlement framework rules. The definition holds that mediation is a jointly developed solution process that parties execute with mediation assistance.[15] The procedural elements of the law establish all the steps from starting mediation to finishing it, including procedures for selecting mediators and operating mediation sessions. The model law teaches mediators exactly how they should assist parties in finding mutual resolutions during disputes. This instrument lets countries develop better mediation legislation alongside structured mediation contract guidelines. Under this provision, parties can start their agreement to utilise mediation services at any point during the process.[16] Two parties should initiate mediation through written correspondence, while the receiving party has to supply a specific response period. The mediator needs to establish a neutral discussion platform.[17] The mediation role excludes both decision-making and legal advice from mediators to parties.

The model encourages countries to establish legislation that supports mediation through its widespread global application. By adopting key UNCITRAL principles, India, Singapore, and China have successfully built national legislation enabling international dispute settlement. For example, India's Mediation Bill 2021 follows the UNCITRAL Model Law while supporting institutional mediation practices and making mediated agreements enforceable.

Singapore Convention on Mediation (2019

The Singapore Convention officially took effect on 12 September 2020.[18] This happened just over a year after the treaty first opened for signing in Singapore on 7 August 2019. On the first day, 46 countries signed the agreement, making it one of the most quickly adopted UN trade conventions. Over the following months, seven more nations joined,

---

[15] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *UNCITRAL* Model Law on International Commercial Conciliation *with Guide to Enactment and Use 2002, available at:* s://uncitral.un.org /en/texts/mediation/modellaw/commercial_conciliation (last visited Jun. 10, 2025).

[16] *Id*.

[17] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *UNCITRAL Mediation Rules 2021, available at:* h ps://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/annex_ii.pdf (last visited Jun. 10, 2025).

[18] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation* (2019) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

increasing the number of signatories to 53. The Convention establishes a transparent and efficient system for recognising mediation reached through international settlement agreements.[19] Thanks to this treaty, such agreements no longer need to be converted into court judgments or arbitration awards before they can be enforced. The Convention is not applicable to mediated settlements recognised as arbitral awards or court judgments in specific countries.

The interconnected world has increased business deals across borders, resulting in conflicts requiring cost-effective and timely dispute-resolution methods. The time and monetary expenses requirement in disputable scenarios can be circumvented through mediation for business operations and governmental entities. Outside both arbitral awards and court cases, mediation is a peaceful method that enables parties to develop suitable solutions that satisfy them. [20]Businesses benefit from mediated agreements because they preserve rapport, which is vital for sustaining future collaborative work. Scientific research has demonstrated that the main issue with mediation arises from the lack of global systems that implement settlement deal enforcement mechanisms. According to an International Mediation Institute survey in 2014, nearly all respondents identified the lack of enforcement mechanisms as an impediment to mediation expansion. According to survey results, the % of individuals who supported an international convention was estimated at 74%. Parties once attempted to enforce mediated agreements through consent awards under the New York Convention before its establishment as the Singapore Convention.[21] This approach has been used in hybrid methods like med-arb but has challenges. One issue is that if arbitration only starts after a settlement, the resulting decision may not qualify as settling a dispute, making it ineligible under the New York Convention. The convention was also made for arbitration, so some rules do not fit with mediation. The Singapore Convention on Mediation was introduced to solve these issues, making enforcing "international mediated settlement agreements" easier.

The Singapore Convention on Mediation was adopted by UNCITRAL and the United Nations General Assembly in 2018 after extensive negotiations involving representatives from different countries and backgrounds. The Convention applies to international settlement agreements that resolve commercial disputes through mediation [Article 1(1)].[22] Mediation is a process where parties try to settle disputes with

---

[19] *Id*.

[20] *Id*.

[21] *Id*.

[22] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United* Nations Convention on International S lement Agreements Resulting from Mediation (Singapore Convention on Mediation, art. 1(1) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

the help of a mediator who has no power to impose a solution (Article 2(3)).[23] The broad definition allows for structured and informal mediation, including those conducted by institutions. The Convention covers only mediated settlement agreements, not agreements to mediate, as mediations do not always start with such agreements. It applies to international settlement agreements based on the parties' places of business at the time of the agreement [Article 1(1)]), not the nature of the mediation.[24] The term "commercial" is intended to have a broad meaning, referencing the UNCITRAL Model Law on International Commercial Mediation (2018). However, the Convention does not cover agreements related to consumer disputes, family matters, inheritance, or employment law [Article 1(2]).[25] The Convention also applies to government entities engaged in commercial activities unless a reservation is made under Article 8(1)(a).[26] This makes it significant for investor-state mediation and broader international dispute resolution.

The Singapore Convention on Mediation applies if a settlement agreement is in writing, signed by the parties, and has proof that it resulted from mediation [Article 4(1)].[27] The writing and signature requirements can be fulfilled through electronic communication [Article 2(1) and Article 4(2)].[28] This allows for online mediation or cases where parties

---

[23] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation*, art. 2(3) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[24] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation*, art. 1(1) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[25] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation*, art. 1(2) *available at:* h ps:// uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[26] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation,* art. 8(1)(a) *available at:* h ps:// uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[27] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation*, art. 4(1) *available at:* h ps:// uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[28] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United* Nations Convention on International S lement Agreements Resulting from Mediation, art. 2(1), 4(2) (2019) *available at:* h ps:// uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

are in different locations when finalising the agreement. To show that mediation led to the settlement, the Convention provides a flexible list of acceptable evidence [Article 4(1)(b)]. This list offers guidance while respecting different mediation practices worldwide. The Convention does not require parties to confirm their consent to enforce their settlement obligations. However, if a country has made a declaration under Article 8(1)(b) requiring parties to opt-in, it may be wise for them to do so.

The Singapore Convention on Mediation has specific grounds for refusing enforcement, only those listed in Article 5. Some of these grounds come from the New York Convention, but not all. One such ground is the incapacity of a party to the settlement agreement [Article 5(1)(a)], inspired by Article V(1)(a) of the New York Convention. Another ground is if the agreement is null, void, or cannot be performed [Article 5(1)(b)(i)], similar to Article II (3) of the New York Convention.[29] If the settlement agreement is not binding [Article 5(1)(b)(ii)], this is drawn from Article V(1)(e) of the New York Convention. Like Article V(2) of the New York Convention, a court can refuse enforcement for public policy reasons or if the dispute cannot be settled by mediation [Article 5(2)].[30] However, some grounds in the New York Convention, such as exceeding authority [Article V(1)(c)] and procedural issues [Article V(1)(d)], do not apply to mediation. The Singapore Convention includes specific grounds related to the mediation process and mediator conduct. Enforcement can be refused if the mediator seriously violated applicable standards, and without that violation, a party would not have agreed to the settlement [Article 5(1)(e)].[31] Similarly, if the mediator failed to disclose conflicts of interest that had a significant impact on a party's decision, enforcement can be denied [Article 5(1)(f)].[32] The connection between the mediator's misconduct and the party's settling decision is crucial. Other grounds for refusal include modifications to the agreement [Article 5(1)(b)(iii)], unclear or fulfilled obligations [Article 5(1)(c)], and contradictions within the agreement itself [Article 5(1)(d)]. The

---

[29] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations* Convention *on International Settlement Agreements Resulting from Mediation*, art. 5(1)(b)(i) *available at:* s:// uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[30] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations* Convention *on International Settlement Agreements Resulting from Mediation*, art. 5(2) *available at:* h ps:// uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[31] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United* Nations *Convention on International Settlement Agreements Resulting from Mediation*, art. 5(1)(e) *available at:* s:// uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[32] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation*, art. 5(1)(f) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

listed grounds contain essentials that several legal systems need to be addressed by this framework.

The Singapore Convention on Mediation was an open process incorporating multiple legal perspectives during its creation. The system combines actual mediation method implementation with fairness requirements for practical usage. The Convention contains strict enforcement rules to prevent misuse. The involvement of a mediator in settlement negotiations must be proved according to Article 4(1)(b).[33] The court will decline to enforce settlements that arise from fraudulent activity. During negotiations, it was agreed that the term "void" covers issues like fraud, duress, misrepresentation, and mistakes (Article 5(1)(b)(i)).[34] The Convention provides certainty for businesses to resolve disputes through mediation. It supports a rules-based global economy and strengthens access to justice. Additionally, it aligns with the United Nations Sustainable Development Goal 16, which promotes peace, justice, and strong institutions. More countries joining the Convention will further these goals.

Over 50 countries, including Singapore, China, India, and Saudi Arabia, have adopted the Singapore Convention. Through its efficient enforcement system, the Singapore Convention has established mediation as a preferred method for handling international trade and investment disputes. For example, under the Singapore Convention, India and Germany recognise the enforceability of settlement agreements for intercontinental disputes between an Indian manufacturer and a German importer.

The United Nations (UN) Dispute Resolution Mechanisms

The UN uses mediation to help prevent and resolve conflicts. It works at different stages, from stopping disputes before they start to rebuilding peace after violence. The UN uses mediation in preventive diplomacy to prevent tensions from turning into war. In peace-making, it helps restore peace after violence. Through peacekeeping, it supports peace agreements. In peacebuilding, it helps create lasting peace and development. For example, in the Israel-Palestine peace talks, the UN is a peace mediator during diplomatic agreements despite ongoing difficulties. Through its mediation of the peace process in South Sudan, the UN achieved a dual goal of decreasing armed confrontations and facilitating accords between battling factions.

---

[33] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United* Nations *Convention on International Settlement Agreements Resulting from Mediation*, art. 4(1)(b) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[34] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation*, art. 5(1)(b)(i) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

World Trade Organization (WTO) and Mediation

The WTO's primary dispute resolution process follows the Dispute Settlement Understanding (DSU), which provides binding legal rules for handling trade conflicts.[35] The DSU ensures fair and predictable trade by managing disputes over WTO rule violations. This system includes consultations, investigations, and appeals to resolve conflicts transparently. After expert review, the case is examined before recommendations are made. If a panel finds a country violating WTO rules, the nation must follow the decision. If it refuses, the affected country can take approved trade actions in response. The DSU has strict deadlines to speed up resolutions and allows other WTO members to monitor cases.[36] Developing nations receive exceptional support to handle disputes more effectively. However, the system faces significant problems, especially since 2019, when the Appellate Body lacked enough judges to handle appeals. This has weakened the dispute settlement system significantly.

This Agreement helps companies do business internationally when another WTO-member country does not follow WTO rules.[37] However, individual exporters cannot directly file complaints with the WTO and must go through their government. For example, the U.S. Government has often used the WTO dispute process to remove unfair trade barriers. This process has helped U.S. agriculture, manufacturing, and intellectual property companies. The dispute process starts with government-to-government consultations. The complaining country can request a dispute panel if no agreement is reached in 60 days.[38] This panel, comprised of experts, listens to both sides and issues a report with findings and recommendations. If either party disagrees, they can appeal, and a separate group reviews the legal aspects of the case. A full initiative lasts approximately 15 months from start to finish.[39] A country that fails at the dispute settlement process must accept panel recommendations or delay compliance according to the decision. The successful party in the dispute can first request financial compensation and use trade sanctions to pursue compliance when the losing party refuses to follow recommendations. Any U.S. company encountering trade problems from actions of another WTO nation should first contact the Office of Trade Agreements Negotiation and Compliance (TANC). Though the full resolution is beyond government control, the United States can approach foreign governments directly and present disputes to the WTO for mediation.

---

[35] UNITED NATIONS COMMISSION ON INTERNATIONAL TRADE LAW, *United Nations Convention on International Settlement Agreements Resulting from Mediation*, art. 5(1)(b)(i) (2019) *available at:* s://uncitral.un.org/sites/uncitral.un.org/files/singapore_convention_eng.pdf (last visited Jun. 10, 2025).

[36] *Id*.

[37] *Id*.

[38] *Id*.

[39] *Id*.

IV

Regional and National Approaches to Mediation

Regional legal rules help create fair ways to solve disputes through mediation. These rules ensure that agreements are followed and that everyone works together. The 2008 EU Mediation Directive asks European countries to use mediation for private and quick dispute resolution. In Asia, the Singapore Convention on Mediation, since 2020, has made global mediation agreements easier to enforce, building trust. Regional organizations mix national laws with local customs when applying mediation. Each country has its own rules for how mediation should work. These laws set standards for how mediation happens, how settlements are enforced, and how participants are protected. National mediation laws make mediation a real legal option, set qualifications for mediators, and ensure privacy. Strong national and regional systems make mediation more effective in solving conflicts peacefully.

The 2008 EU Mediation Directive (EU

EU enacted the 2008/52/EC European Mediation Directive, which encourages peaceful dispute mediation. Member States must offer a structure for enforcing mediation agreements between parties involved in cross-border disputes according to the EU Directive.[40] These agreements gain enforceability, after which EU countries apply recognition through their existing enforcement procedures. The directive does not order parties to mediate, nor will it penalize them if they decline participation in mediation. However, it encourages mediation by allowing judges to invite parties to consider it. Due to low mediation use, the EU later pushed for more vigorous mediation encouragement. In 2018, the European Parliament admitted that the Directive had not achieved its goal of increasing mediation. The EU strongly supports mediation but struggles to make it standard across Member States.

The Mediation Directive was introduced in 2008 to address mediation rules in the EU. Except for Denmark, all EU countries had to implement the Directive by May 2011. The goal is to improve access to dispute resolution and encourage peaceful settlements while balancing mediation and court proceedings (Article 1).[41] It applies when two or more parties in a civil or commercial cross-border dispute voluntarily seek mediation. It does

---

[40] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135_Mediation_Directive-FINAL.pdf (last visited Jun. 10, 2025).

[41] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment*, art. 2, *available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135_Mediation_Directi ve-FINAL.pdf (last visited Jun. 10, 2025).

not cover tax, customs, administrative issues, or government liability cases. Some family law matters, where parties cannot choose the applicable law, are also excluded. The Directive broadly defines "cross-border disputes," meaning that even disputes starting as local can later fall under its scope if one party moves abroad. The Directive does not make mediation mandatory but highlights its benefits. It does not set strict mediation rules but leaves Member States to create their own guidelines. A dispute is considered "cross-border" if at least one-party lives in a different Member State than the other when mediation is agreed upon, when a court suggests it, or when national law requires mediation (Article 2, §1).[42]

The Mediation Directive ensures that agreements reached through mediation can be enforced. Article 6 requires EU countries to allow parties to request enforceability of mediated agreements. Settlement agreements are generally treated as contracts, enforceable under local laws. The directive strengthens mediation agreements by ensuring they can be enforceable unless they contradict local laws. If enforceable in one EU country, they should be recognized across others under existing legal frameworks. Article 5 allows judges to suggest mediation at any stage of a case.[43] Mediation is encouraged but not mandatory, though countries may introduce incentives or penalties. The directive does not impose penalties for refusing mediation but allows national laws to do so. Article 7 protects mediation confidentiality, preventing mediators from testifying in legal cases.[44] Exceptions exist for public policy concerns or if disclosure is needed for agreement enforcement.

The directive also allows countries to enforce stricter confidentiality rules. To prevent time-barred claims, limitation periods are paused during mediation. The directive promotes voluntary codes of conduct and mediator training but lacks enforcement mechanisms. Despite its goals, mediation remains underused, with fewer than 1% of EU cases mediated. In 2014, the European Parliament sought to improve mediation by amending the directive or setting mediation targets. A 2016 report acknowledged the directive's impact but highlighted shortcomings. In 2017, the EU Parliament urged Member States to promote mediation and develop EU-wide standards. Studies found

---

[42] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment*, art. 2, §1 *available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135_Mediat ion_ Directive-FINAL.pdf (last visited Jun. 10, 2025).

[43] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment*, art. 5 *available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135_Mediat ion_ Directive-FINAL.pdf (last visited Jun. 10, 2025).

[44] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment*, art. 7 *available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135 _Mediation_Directive-FINAL.pdf (last visited Jun. 10, 2025).

that voluntary mediation, per Article 5(2), was a key weakness.[45] Some suggested mandatory mediation or an opt-out model, but no amendments were made. By 2018, the directive was seen as ineffective, with EU lawmakers advising Member States to find their solutions.

The EU also introduced the ADR Directive and ODR Regulation for consumer disputes. The ADR Directive ensures that consumers have access to out-of-court dispute resolution. The ODR Regulation launched an online platform in 2016 to resolve cross-border consumer disputes. EU businesses selling online must link to the ODR platform, which handles complaints digitally. A 2019 report found improved ADR procedures but noted limited uptake. The ODR platform was highly engaged, suggesting a preference for online solutions. In 2021, an assembly identified ADR barriers like low awareness, trader reluctance, and legal complexities. The EU pledged funding for ADR improvements, including digitalization, training, and awareness campaigns. The Commission continues promoting ADR and ODR, improving accessibility and effectiveness.

The Alternative Dispute Resolution Act (1998) (U.S.)

The US is considered to have one of the most developed mediation systems globally. The US has several federal and state ADR laws. However, the main one is the ADR Act, which requires all U.S. federal district courts to offer at least one ADR method for civil cases, such as mediation or arbitration. It aims to help litigants resolve disputes without going to trial, reducing case backlogs.[46] The preamble highlights mediation's potential to ease court congestion and its success in appellate courts. The ADR Act has several key mandates for district courts: they must adopt local rules supporting ADR, create their own ADR programs, and require litigants to consider ADR at some point in their case. Courts must also ensure ADR confidentiality and establish procedures for selecting neutrals. The Act applies to bankruptcy courts since they are part of the district court system. Mediation is often mandatory, as courts sometimes require it, along with early neutral evaluation and arbitration (if both parties agree). The ADR Act has produced considerable effects on the legal system. Civil litigation now prioritizes mediation as its primary dispute resolution process, even though this practice had minimal use before.[47] The practice of mediation now dominates discussions rather than trials and evidence, which used to absorb lawyers' attention previously. Through

---

[45] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment*, art. 5(2) *available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135_Mediation_Directive-FINAL.pdf (last visited Jun. 10, 2025).

[46] EUROPEAN PARLIAMENTARY RESEARCH SERVICE, *Mediation Directive: European implementation assessment available at:* h ps://www.europarl.europa.eu/cmsdata/226405/EPRS_ATAG_627135_Mediation_Directive-FINAL.pdf (last visited Jun. 10, 2025).

[47] *Id*.

mediation practices, civil dispute resolutions have become the primary method used during the past twenty years, thus transforming the approaches lawyers utilize for negotiation. Mediation provided by the American Bar Association (ABA) has a success rate of more than 70% of all disputes. The ADR Act is the primary driver behind the considerable modifications observed in the court processing of civil cases.

People's Mediation Law (2011) (China)

China's Standing Committee enacted the People's Mediation Law on August 28, 2010, before taking effect on January 1, 2011.[48] The legislation works to find swift solutions for community conflicts to sustain public peace. The People's Mediation system is one of the multiple mediation services that operate alongside court-connected administrative and arbitration mediation in China. China's government prioritizes additional mediation systems, including professional, lawyer, and commercial components. Under this law, the mediation services operate without charge through People's Mediation Committees, receiving financial support from the government and guidance from administrative and judicial bodies. Each committee needs representation by women and ethnic minority members unless specified otherwise. Mediation operates as a voluntary process that respects the full rights of parties without impacting their ability to pursue arbitration or litigation.[49] People's Mediators serving on the committees receive their appointments from the committees and must display neutrality while maintaining ethical conduct and conducting their mediation tasks. They are prohibited from exploiting mediation for personal gain or disclosing sensitive information. Mediators must take precautions and inform authorities if a dispute becomes highly contentious and criminal acts seem likely. Although no formal accreditation system exists, mediators must know policies and laws. Training is provided, and unpaid mediators may receive recognition for exceptional service. If a mediator loses wages, suffers injury, or dies while mediating, they or their families may receive compensation.

Mediation can be initiated by a party or the People's Mediation Committee, but it cannot proceed if one party refuses.[50] Parties can choose or accept a mediator and may terminate mediation at any time. The process can be private or open, allowing parties to speak freely under the principle of self-determination. Mediation may involve one or multiple mediators, and, with consent, relatives, colleagues, or experts may participate. Mediators use persuasion and may explain laws and policies during sessions. The committees must keep mediation records and settlement agreements. Agreements can be verbal or written, with verbal agreements taking effect immediately. Written

---

[48] NATIONAL PEOPLE'S CONGRESS OF CHINA, *People's Mediation Law of the People's Republic of China available at:* h ps://www.lawinfochina.com/display.aspx?CGid=&id=8266&lib=law (last visited Jun. 10, 2025).

[49] *Id*.

[50] *Id*.

agreements require signatures from both parties, the mediator, and the committee's seal. Parties can request court confirmation within 30 days, and if a court rejects an agreement, further mediation can be pursued. As a mediator, the author acknowledges cultural differences and finds knowledge of China's mediation helpful when dealing with Chinese parties. Understanding these differences helps explain different mediation approaches to users more effectively.

V

India's Perspective on Cross-Cultural Mediation

Cross-cultural mediation in India helps settle disputes between people from different cultural backgrounds. Mediators trained in cultural differences facilitate mediation processes that ensure fair dialogue and mutual understanding. India has many languages, unique social systems, and rich traditions, making cultural understanding important. A mediator must respect religious customs, body language, and social structures. Cross-cultural mediation plays a key role in mediating cases across borders, especially for Indian companies doing business with foreign companies.

Historical Context of Mediation in India

The Panchayat system is an old way Indian villages solve disputes using community elders as mediators. These elders, called Panches, have handled conflicts for centuries. Being a Panchayat member brings respect and knowledge of village traditions.[51] They settle issues using local customs instead of strict legal rules. This system works outside courts, making it fast, cheap, and easy for people. The goal is to restore peace by helping both sides understand each other. It is a simple, community-based way to resolve problems without formal legal steps. Minor disputes such as land disputes, family disagreements and small crimes fall under the jurisdiction of Panchayats. If a dispute arises, the Panchayat members convene both disputing parties before listening attentively to their accounts. Panchayats lead discussions that produce fair solutions through their mediation process. Despite the lack of legal force, decisions are respected because of community pressure.

Respected businessmen used the Mahajan system to handle commercial disputes informally during the traditional era. Legal mediation became part of the legal system after British rule ended. Mediation in labor disputes was formally introduced by the

[51] A. Girnyk et al., *A Psycholinguistic cross-cultural study of the concept 'conflict' in India and Ukraine* 8 EAST EUR. J. PSYCHOLINGUISTICS 51 (2021).

Industrial Disputes Act (1947).[52] Through the Legal Services Authority Act (1987), Lok Adalats received their legal establishment to promote mediation. Lok Adalats acts as a dispute settlement forum in India that uses mediation-based processes to ease the load on courts and deliverswift resolutions. ADR includes Lok Adalats as a significant component that implements mediation and conciliation approaches as part of its dispute resolution system.

The goal of Lok Adalats is to limit judicial verdicts by prompting both disputing parties to establish an agreement. Such courts maintain a casual structure that allows people to access settlements easily. Legal experts and social workers form a panel that guides the interaction between disputing parties. Parties who settle their disputes through Lok Adalats reach settlements that cannot be challenged in court. Lok Adalats handles disputes, including motor accident claims, insurance-related matters, family disputes, cases, property conflicts, cheque bounce disputes, and civil matters. These judicial forums reduce court backlogs because they efficiently settle cases faster. Lok Adalat bargaining costs less to administer courts because participants bypass time-consuming legal court proceedings. A standard court process takes longer to reach its conclusion than Lok Adalats. The participation of community members at Lok Adalats creates an environment that expands access to justice.

The Code of Civil Procedure (Amendment) Act of 1999 established Section 89 as it officially added mediation to the list of ADR methods. The Supreme Court took charge through its Mediation and Conciliation Project Committee (MCPC) to establish both a promotion program and training facilities for mediators. Under court-annexed mediation, the judges can send cases to mediation centers. The culture of Indian society endorses mediation through discussions and the advice of older generations, leading to widespread acceptance. The judiciary faces a growing number of cases that lead authorities to adopt mediation to reduce the backlog. Through the Mediation Act of 2023, India introduced a systemic legal framework that enhances mediation as the favored resolution process across the country.

Current Legal and Institutional Framework

The Mediation Bill 2021 adopted international mediation processes because India previously relied on informal practices such as Lok Adalats, Panchayats and court-referred mediation for settlement determinations. The bill requires people to try mediation before going to court for civil or commercial disputes.[53] They can leave after two sessions. Mediation must finish in 180 days but can be extended by another 180 days. A Mediation Council of India will be created to register mediators and certify mediation institutes. Some disputes, like criminal cases, cannot go through mediation.

---

[52] NITI AAYOG, *Designing the future of dispute resolution: The ODR policy plan for India, available at:* h_ps://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf (last visited Jun. 10, 2025).

[53] The Mediation Act, 2023.

The government can update this list. Parties can choose any mediator or request one from a mediation provider. Mediation agreements will be legally binding, just like a court judgment.

The Bill makes pre-litigation mediation compulsory, though mediation is usually voluntary. While this may reduce court cases, it contradicts mediation's voluntary nature. The Mediation Council, which oversees mediators, may lack experienced mediators, unlike the Bar Council of India.[54] It also needs central government approval before making key regulations, though the government itself may be involved in mediations. The Bill covers international mediations only if held in India. However, it does not address enforcing settlements from mediations conducted outside India.

ADR in India allows conflicts to be settled outside regular courts through methods like arbitration, negotiation, mediation, and Lok Adalats. Mediation is a voluntary process where an independent mediator helps parties resolve disputes without forcing a decision. It is flexible, confidential, cost-effective, and reduces the burden on courts. Mediation in India can be court-referred under the Code of Civil Procedure, private through contractual agreements, or governed by specific laws like the Commercial Courts Act and the Consumer Protection Act. Both private ADR centers and court-annexed mediation centers offer mediation services.[55] As of 2021-22, India had 397 functional ADR centers, 570 mediation centers, and over 16,000 mediators, resolving nearly 53,000 cases through mediation. Many countries, including Australia and Singapore, have dedicated mediation laws, and India has considered similar legislation. The Supreme Court and various committees have proposed a mediation law, leading to the Mediation Bill, 2021, which promotes institutional mediation and enforces mediated settlement agreements.

The Bill requires parties to try mediation before filing civil or commercial cases in court, though courts may still refer cases to mediation later.[56] Certain disputes, such as those involving minors, criminal matters, or third-party rights, are excluded from mediation. The Bill applies to domestic and international mediations involving government disputes. If parties agree, mediation proceedings are confidential and must be completed in 180 days, extendable by another 180 days.[57]Parties or mediation service providers can appoint mediators and must disclose conflicts of interest. A Mediation Council of India will be set up to register mediators and oversee mediation service providers. Mediated settlement agreements will have the same legal standing as court judgments but can be challenged on specific grounds like fraud or corruption. Additionally, three mediators will conduct community mediation to resolve disputes affecting local peace, including community members or regional representatives.

---

[54] *Id*.

[55] *Id*.

[56] *Id*.

[57] *Id*.

Mediation is a voluntary way to settle disputes, unlike litigation or arbitration, which involve a decision by a judge or arbitrator. The Bill requires parties in civil and commercial disputes to try pre-litigation mediation before court. Some believe this helps reduce court cases, speeds up dispute resolution, and saves money.[58] The Bill only requires participation in the process, not agreement on a settlement. Countries like Italy, Brazil, and Turkey have successfully used mandatory mediation for a few sessions. However, forcing people into mediation contradicts its voluntary nature. If parties attend only for formality and withdraw, it may cause delays and extra costs. The Bill also requires enough trained mediators, and NITI Aayog suggests a phased rollout to match mediator availability. Expanding mediation should be done gradually to ensure enough trained professionals.

The Bill sets up the Mediation Council of India to register mediators, recognize service providers, and set professional standards. However, it does not require practicing mediators on the Council. Most professional regulatory bodies, like those for doctors and lawyers, include experienced professionals.[59] The Council's members may have mediation experience but not necessarily practice it. Arbitrators, who may not understand mediation fully, could be appointed instead. Another issue is that the Council must get government approval before making regulations. This could weaken its independence, as the government may also be a party in mediations. In contrast, some professional bodies, like the Bar Council of India, do not need such approval. However, organizations like the Institute of Chartered Accountants do require it.

The Bill covers international mediations happening in India but does not clarify how mediated settlements made abroad will be enforced in India. India signed the Singapore Convention on Mediation, which helps enforce international settlements, but has not ratified it yet. Another issue is that mediators conducting pre-litigation mediation must be registered in four different places. They must be with the Mediation Council, a court-annexed mediation center, a recognized mediation service provider, and a Legal Services Authority. It is unclear why one registration is not enough. A mediator registered with the Council but not with a court-annexed center cannot conduct mediation. This requirement may create unnecessary administrative hurdles.

NITI Aayog's Mediation Reforms and Initiatives

India's legal system is changing with the rise of Online Dispute Resolution (ODR) in the digital age. NITI Aayog presents guidelines for merging ODR technology with legal reform systems through its report.[60] A working ODR system requires legal reforms, public culture openness, and financial backing for digital facilities. ODR is a quick, low-

---

[58] *Id*.

[59] *Id*.

[60] NITI Aayog, *Designing the future of dispute resolution: The ODR policy plan for India, available at:* h ps://www.niti.gov.in/sites/default/files/2023-03/Designing-The-Future-of-Dispute-Resolution-The-ODR-Policy-Plan-for-India.pdf (last visited Jun. 10, 2025).

cost, and easy way to settle disputes. However, legal rules and uneven tech access slow its growth. People will trust ODR only if it follows strong legal guidelines. Laws like the Arbitration and Conciliation Act and the Code of Civil Procedure need updates. ODR blends law with technology, making dispute resolution more efficient. India's legal system is ready for this change.

Furthermore, NITI Aayog's plan provides a roadmap to ease the court burden. Courts struggle with tech-related cases, making ODR a needed solution. The ODR approach represents more than an addition to the justice system because it leads toward speedier and technology-powered judicial operations. A three-level system based on regulations, behavioural techniques, and structural development provides the best framework to execute ODR. Better digital infrastructure and education stand essential for achieving effective implementation at the basic operational structure. Technological investments create the possibility for ODR to become accessible in rural locations. Everyone requires digital platform education, and ODR system proficiency is essential for arbitrators who handle cases using this method. On a behavioral level, ODR needs acceptance by government agencies. NITI Aayog expects the public sector to act as an example, inspiring private businesses to join. A change in approach will help develop public trust toward ODR platforms.[61] The government's implementation of awareness programs would help promote ODR adoption. These marketing efforts will demonstrate that ODR delivers more benefits at lower costs to consumers than traditional court systems. The increased knowledge of ODR among people will motivate them to use this method for dispute settlement.

NITI Aayog supports adaptable ODR platform regulations that promote best practices and ethical practices. The regulatory framework promotes personal regulation and maintains organizational transparency by using defined policy frameworks. There is a need for legal modifications to establish ODR within the current legal frameworks of the Code of Civil Procedure and Arbitration Act. The Indian legal system is ready to implement ODR, but the nation lacks official legislation to support its adoption. Section 89 of the Civil Procedure Code provides legal support to alternative dispute resolution and ODR. Law recognition of ODR systems will strengthen their validity and draw more users and practitioners toward their use.

The implementation of ODR in India faces challenges because of the digital divide that restrains rural areas from using technology.[62] Advanced technological capabilities do not solve the problem of poor digital competency and unstable internet connections that prevent reliable use of ODR services. During the virtual hearings conducted due to COVID-19, many litigants encountered difficulties because of the minimal digital infrastructure in the courts. *Swapnil Tripathi* v. *The Supreme Court of India* (2018) revealed that every participant in virtual hearings needs identical access through ODR to uphold

---

[61] *Id*.

[62] *Id*.

court fairness. The enforcement of ODR remains unclear because the Indian legal system has not formally acknowledged it as a valid practice.

According to NITI Aayog's recommendations, ODR should be incorporated into legislation, starting with the Arbitration and Conciliation Act, although specific amendments are required. According to the *Indian Oil Corporation Ltd.* v. *Amritsar Gas Service* (2009) case, parties hesitate to use ODR due to unclear laws.[63] The successful development of ODR requires upgrading digital infrastructure and providing digital education programs and public internet access everywhere. The laws must explicitly include ODR provisions because this step will create trust in digital tools among users. All policies affecting ODR need to start with early involvement from policymakers who will discuss legal matters and develop solid ODR integration guidelines.[64] Lawyers must participate in ODR training that teaches them how to manage disputes online because it provides essential skills for practice. The educational institutions trained by law schools and legal groups will improve the quality of training education. Massive public awareness efforts must demonstrate that ODR solutions are cost-effective and efficient while allowing users to boost acceptance across the population.

VI

The Role of India's Judiciary in Promoting Mediation

The initial step of ADR development in India began with the Arbitration Act of 1940, which failed to become widely utilized and remained ineffective. The Arbitration and Conciliation Act of 1996 adopted the UNCITRAL model to allow arbitrators to incorporate mediation or conciliation under arbitration procedures when both parties agree. Under the Legal Services Authorities Act 1987, the government created Lok Adalats to deliver affordable dispute settlement services. Section 89 of the Civil Procedure Code (CPC) from 1908 compelled judiciary entities to transfer disputes involving parties who consent to ADR while drawing insights from Law Commission proposals and the Malimath Committee suggestions.[65]

Through its various activities, the judiciary has transformed India into a favorable environment for arbitration. Indian courts tend to avoid interfering in arbitration decisions that face legal challenges. Courts maintain the validity of arbitration agreements even if some errors exist because they uphold the purpose of such agreements to solve disputes through channels outside regular judicial proceedings.

---

[63] *Id*.

[64] *Id*.

[65] The Code of Civil Procedure, 1908.

The Supreme Court enforces arbitration agreements even with minor mistakes unless it becomes clear that parties intend to settle disputes through non-traditional means.

While courts have helped remove obstacles in the arbitration process, foreign entities still hesitate to choose India for arbitration. To make arbitration more appealing, specific steps must be taken. India should shift from ad-hoc arbitration to institutional arbitration. The government, being the biggest litigant, should instruct all public bodies to accept arbitration awards unless strong reasons exist, approved by a high-ranking official. Courts should impose heavy penalties on frivolous petitions challenging mediation awards. Arbitrators should be selected based on the nature of the disputes. More judges and courts dedicated to arbitration should be appointed to speed up proceedings.

India's Role in International Business Disputes

India plays a significant role in international business disputes, mainly through the WTO, where it fights for fair trade and supports developing nations. Trade disputes require India to function both as a complainant and respondent duty with its enforcement of fair trade laws. The Indian government stands to defend its primary production sectors, including steel production and textiles, alongside agricultural products, from improper market competition.[66] The institution demands WTO modifications to help developing states establish equal trade standards. The country frequently addresses export restrictions, high tariffs and import dumping issues. The resolution of trade disputes occurs through WTO cases, bilateral negotiations, and retaliatory measures India uses to settle such conflicts. India is enhancing arbitration for faster, transparent dispute resolution, challenging EU steel tariffs, addressing China's solar panel dumping, and handling pharma IP disputes.

The Role of India in Global Mediation

India is emerging as a global mediator, promoting peace amid rising conflicts. It engages in diplomacy with Russia and Ukraine, recognizing the importance of neutral peacemakers. Indian foreign policy follows the ancient principle of '*vasudhaiva kutumbakam'* (The World is One Family). India has played a key role in peace efforts, mediating between Austria and the Soviets (1955), the Koreas (1956), and Vietnam during wartime. It opposed Chinese aggression while supporting Vietnam and peacefully integrated Goa in 1979. India prefers dialogue over military conflict, including in the Kashmir dispute. Its diplomatic efforts led to Israeli flights through Saudi airspace in 2018. The "5-S Approach" includes respect (Samman), dialogue (Samvaad), cooperation (Sahyog), peace (Shanti), and prosperity (Samriddhi). India helped prevent nuclear escalation in the Russia-Ukraine war and highlighted developing nations' war issues at the G20. Despite its commitment to peace, India faces

---

[66] Yash Meher, *India's new role as world's mediator*, Niti Tantra (Oct. 5, 2024) *available at*: h ps://nititantra.com/indias-new-role-as-worlds-mediator/ (last visited Jun. 10, 2025).

challenges like regional tensions and economic dependencies. It must use multilateral groups like BRICS and the UN to strengthen its mediation. Expanding mediation, forming peace units, and hosting a global diplomacy summit will boost its influence. India cements its role as a worldwide peacemaker through strategic diplomacy and humanitarian efforts.

VII

Case Study of Indian Companies Using Mediation for Global Conflicts

The share subscription agreement between *Tata Sons Private Limited and Siva Industries and Holding Limited alongside Tata Tele Services Ltd (TTSL) occurred on February 24, 2006*.[67] The principal beneficiary obtained the shares, and the second signatory was a surety for this transaction. TTSL Tata Sons and NTT Docomo established a new agreement that allowed Docomo to buy 26% shares in TTSL.[68] The first respondent gave Docomo shares, and both parties signed a Shareholders' Agreement. An Inter se agreement was also made, requiring respondents to buy TTSL shares if Docomo sold its stake. In July 2014, Docomo exercised its sale option, leading to a dispute and arbitration.[69]The Tribunal ruled in Docomo's favor, ordering the applicant to buy the shares and pay damages. The applicant then asked the first respondent to fulfill the Inter se agreement, but they refused. The second respondent, as guarantor, was liable if the first respondent defaulted. Arbitration began, but the respondents declined to appoint an arbitrator, prompting a Supreme Court petition. The Court appointed Justice S. N. Variava as the sole arbitrator. Arbitration started in February 2018, extending the deadline to August 2019. Meanwhile, IDBI Bank initiated bankruptcy proceedings against the first respondent, pausing arbitration. The petitioner sought an extension of jurisdiction until the insolvency moratorium ended. The Court postponed hearings, and the respondent exited insolvency in June 2022.[70]The petitioner claimed that the amended Section 29A of the Arbitration Act allowed arbitration to continue. Key issues in the case were whether the amended Section 29A applies to international arbitration and whether it was retroactive or forward-looking.[71]

The petitioner argued that the 2019 amendment to Section 29A removed the 12-month deadline for international commercial arbitration. They believe this change should apply to ongoing cases since it is procedural. If the amendment does not apply, they

---

[67] *TATA Sons Pvt. Ltd.* v. *Siva Industries and Holdings Ltd.*, 2023 (5) SCC 421 (India).

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *Id.*

request more time for the arbitrator to finish. The respondent countered that Section 29A still applies to international arbitration.[72] They warned that accepting the petitioner's view would remove deadlines. They argued courts should have control when no arbitral institution is involved. Arbitration should not be entirely controlled by the forum, especially under Indian law.

According to the court, the 2015 amendment to the Arbitration Act required all arbitration awards to be given within a year of the arbitrator's appointment. If the award was not issued within this time, the arbitrator's authority expired unless extended by a court. However, a recent Section 29A(1) change removed this strict deadline for international business arbitrations. Instead, awards should be given "as soon as possible," ensuring timely rulings without a fixed timeline.[73]The twelve-month rule still binds domestic arbitrations, but the amendment grants more flexibility in issuing awards. The change clarifies differences between local and international arbitrations. In law, procedural changes usually apply to past cases unless stated otherwise. The 2019 amendment did not mention future applications, so it applies to all pending arbitrations from August 30, 2019. Justice B.N. Srikrishna's committee recommended these changes after reviewing arbitration processes in India. Many international arbitration groups opposed strict deadlines, arguing that parties should set timelines based on case complexity. In response, lawmakers removed the time limit for international arbitrations, allowing greater flexibility while ensuring efficient proceedings.

The Supreme Court ruled that Section 29A does not apply to foreign business arbitrations due to different laws.[74] Imposing strict deadlines on global disputes would harm arbitration quality. This decision helps India's global arbitration reputation by supporting party autonomy and flexibility in dispute resolution.

VIII

Landmark Mediation Cases in India

The first one is *Delhi Metro Rail Corporation (DMRC)* v. *Delhi Airport Metro Express Pvt. Ltd. (DAMEPL).*[75] Justice Teare once said that by choosing arbitration, parties accept the tribunal's power to make a "wrong" decision on facts. This means courts usually don't interfere with arbitration awards. However, the Indian Supreme Court changed this idea in *DMRC* v. *DAMEPL*. DAMEPL won an arbitration case against DMRC, but

---

[72] *Id*.

[73] *Id*.

[74] *Id*.

[75] *Delhi Airport Metro Express Pvt. Ltd.* v. *Delhi Metro Rail Corporation Ltd.*, 2024 S.C.C. Online S.C. 522.

DMRC challenged it under Section 34 of the A&C Act. The Delhi High Court rejected DMRC's plea, but a Division Bench later overturned the decision, finding errors in the tribunal's ruling. DAMEPL appealed, and the Supreme Court restored the arbitration award.[76]DMRC then sought a review, which was dismissed. Still unsatisfied, DMRC filed a curative petition. Surprisingly, the Supreme Court allowed it, overturned its earlier ruling, and upheld the Division Bench's decision to cancel the award. This rare move significantly shifts how Indian courts handle arbitration cases.

In 2008, DMRC and DAMEPL signed a concession agreement to build and run a high-speed metro. Soon after operations began, DAMEPL found structural defects that made the metro unsafe and affected its contractual duties. DMRC was informed, and DAMEPL warned that it could terminate the agreement if the issues were not fixed. Since DMRC did not resolve the defects, DAMEPL ended the deal. After receiving the termination notice, DMRC started arbitration. Meanwhile, both parties asked the CMRS, a safety authority under the Metro Act, to approve reopening the metro. A few days later, CMRS allowed operations but with speed restrictions. In July 2013, while the dispute continued, DMRC took over the metro line. The Tribunal examined whether DAMEPL's termination was valid. It ruled in favor of DAMEPL, stating that the defects were severe and remained unfixed.[77] The Tribunal rejected DMRC's argument that CMRS approval proved the defects were resolved. It held that the CMRS sanction and metro operations did not affect the legal validity of the termination. DMRC later challenged the Award based on this finding.

The Supreme Court examined claims that the Tribunal ignored the CMRS sanction under Section 34(2-A) of the A&C Act. This section allows courts to set aside an arbitral award if it contains a clear legal error. However, errors in applying the law or re-evaluating evidence do not qualify. Before reviewing the claim, the Court explained the "patent illegality" test from past cases like *Associate Builders* v. *Delhi Development Authority and Ssangyong Engineering* v. *NHAI*.[78] An award is patently illegal if it is based on no evidence or disregards key facts. The Court split its analysis into two parts: first, interpreting the contract, and second, examining whether the CMRS sanction was wrongly excluded.

The Supreme Court criticized the Tribunal for ignoring the CMRS sanction when deciding on contract termination. It ruled that the sanction was key evidence supporting DAMEPL's reasoning. The Court justified this by stating that safety concerns were central to the dispute, and the Metro Act linked CMRS sanction to public safety. Ignoring this evidence made the Award patently illegal.[79] However, three concerns arise. First, the Court overstepped by re-evaluating evidence, undermining arbitration's

---

[76] *Id*.

[77] *Id*.

[78] *Id*.

[79] *Id*.

purpose. Second, it misunderstood the issue. The Tribunal considered CMRS but found that it did not prove the defects were fixed. The Supreme Court treated it as entirely ignored. Third, this judgment raises concerns about when a tribunal's disregard of evidence can justify overturning an award. The English Commercial Court's UMS Holding case warns against assuming tribunals overlook proof because they don't mention it. Courts shouldn't impose judicial judgment standards on arbitral awards. In DAMEPL, the Supreme Court did just that, turning limited judicial review into an appellate process. This broad approach allows excessive litigation. The Court should rethink whether tribunals can be challenged for allegedly ignoring vital evidence.

Another case *is Afcons Infrastructure Ltd* v. *Cherian Varkey Construction Ltd.*

Section 89 of the CPC, 1908, aims to reduce the burden on civil courts by allowing disputes to be referred to arbitration.[80] The Supreme Court considered whether courts could refer parties to arbitration under Section 89 without an arbitration agreement. After reviewing alternative dispute resolution methods, the Court ruled that both parties must consent to arbitration. In this case, Cochin Port Trust gave a contract to Afcons Infrastructure Ltd on 20.04.2001.[81] Afcons subcontracted part of the work to Cherian Varkey Construction. Cherian Varkey Construction sued Afcons for Rs. 2,10,70,881 plus 18% annual interest. The trial court allowed arbitration under Section 89, but Afcons challenged this decision in the High Court.

The Kerala High Court upheld the trial court's order, stating that unwilling parties could be referred to arbitration. Afcons then appealed to the Supreme Court. The Supreme Court ruled that without an arbitration agreement, courts could not refer disputes to arbitration under Section 89 of the Arbitration and Conciliation Act.[82] The Court clarified that an arbitration agreement is necessary before the dispute resolution process. However, parties can agree to arbitration at any stage of a case with court approval. The Supreme Court also noted that cases involving trade, contracts, consumer protection, and torts could usually be mediated.

IX

Conclusion

Global leaders must mediate cross-cultural conflicts effectively. Understanding other cultures helps leaders develop an open and cooperative work environment. The article outlined essential features of cross-cultural disagreements while describing fundamental mediation capabilities and delivering actual scenarios of conflict

---

[80] *Afcons Infrastructure Ltd.* v. *Cherian Varkey Construction Co. (P) Ltd.*, 2010 (8) SCC 24.

[81] *Id.*

[82] *Id.*

resolution achievement. Organizations need cultural competence development to resolve conflicts throughout the world effectively. Research by Harvard Business Review demonstrates that diverse companies can successfully reach new markets through their ability to access them by 70%. Organizations benefit from better innovation and growth when mediation occurs through strong methods. New leaders must practice active listening and empathy while displaying cultural awareness of their issue resolutions. The resolution process becomes attainable when you bring diversity to the fore with genuine stakeholder discussions. Organizational mediation techniques that achieve fair outcomes need implementation by leaders. The two main characteristics of efficient leadership consist of learning and adaptation. Cross-cultural mediation experience enables leaders to strengthen their team-building skills and generate an inclusive environment for society. Strategic dispute transformation allows organizations and communities to achieve robust advancement along with each other. Multiple workplace misunderstandings create essential requirements for having skilled mediators on hand. The resolution of disputants becomes more possible through specific communication methods and both active listening and empathetic practices. The practice of recognizing different cultures together with focusing on shared values creates opportunities for joint work. Training cultural competence for mediators decreases the intensity of conflicts during resolution processes. Equipping people with the right tools fosters better global relationships. Peace and cooperation between parties emerge as a long-lasting result of effective mediation. The investment in such capabilities will create better international connections. Mediation is a problem-solving technique that establishes continuous respect and long-term business relationships.