



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ENFORCEABILITY OF MEDIATED SETTLEMENT AGREEMENTS UNDER THE MEDIATION ACT, 2023

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In India's continuous endeavour to institutionalise alternative dispute resolution procedures, the Mediation Act, 2023, is a significant step. Mediation presents an alluring alternative as courts struggle with record-breaking case backlogs and parties seek quicker and more affordable dispute resolution. The Act aims to strike a balance between the effectiveness of mediation and the power of the legal system by giving mediated settlement agreements (MSAs) statutory recognition and guaranteeing their enforceability.

Legal Framework and Enforceability under the Mediation Act, 2023

The core concept of the Mediation Act of 2023 is that parties who settle their disagreements amicably through mediation ought to enjoy the same level of legal protection as those whose disagreements are decided by judges. A mediated settlement agreement that has been signed by each party and verified by the mediator is final and enforceable, according to Section 27 of the Act. Importantly, these contracts have the same legal power and effect as a court order or judgement. Parties are reassured by this clause that their negotiated agreements will be upheld and can be carried out with full legal force.

Section 28 also discusses possible objections to mediated settlement agreements. Only on certain grounds- fraud, corruption, impersonation, or situations where the dispute was judged unsuitable for mediation under Section 6 may a party petition a competent court or tribunal to contest an MSA. Crucially, challenges have to be submitted within 90 days after receiving the agreement, with a further 90 days allowed if good reason is provided. These protections guarantee that mediated settlements are held accountable and equitable even while they are respected.

Judicial Recognition of Mediated Settlements

Indian courts have acknowledged the enforceability of mediated settlement agreements even before the Mediation Act, 2023 was passed. In landmark case of *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*¹, the Supreme Court ruled that a mediation-awarded settlement agreement is legally binding and enforceable as long as it is put in writing and signed by both parties. In *Narayandas Morakha v. Union of India*², the Delhi High Court reaffirmed this stance, stressing that a mediated settlement has the same enforceability as a court order once it is formalised in writing.

These cases show that the legitimacy and enforceability of mediated agreements have long been recognised by Indian jurisprudence. By codifying this principle, the Mediation Act of 2023 provides parties with previously lacking statutory support and clarity.

The Role of the Mediation Council of India

The Mediation Act of 2023 also creates the Mediation Council of India, which is responsible for monitoring and controlling mediation procedures throughout the nation. The Council is in charge of establishing professional standards, accrediting mediators, and raising awareness of mediation as a substitute for litigation. The Act aims to guarantee uniform quality and professional ethics in mediation practice by institutionalising mediation.

Challenges and Considerations in Enforcement

Despite the strong legal structure, there are always practical difficulties in implementing mediated settlement agreements. The courts' readiness to manage enforcement actions effectively is one important factor. Despite Section 27's authority to regard MSAs as executable decrees, judges' understanding of the subtleties unique to mediation is still growing. To avoid misunderstandings and delays, judges and registration employees must be trained on the special features of mediated agreements.

Maintaining impartiality throughout the mediation process itself presents another difficulty. Although courts have the authority to enforce agreements, they are unable to retroactively amend agreements that may have been reached under duress or with an unequal negotiating

¹ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.* (2010)

² *Narayandas Morakha v. Union of India* (2018)

position. Therefore, it is crucial to guarantee mediator objectivity, openness, and respect to moral principles. In order to allay these worries, the Mediation Council of India is crucial in creating rules of conduct and supervision systems.

Impact on Access to Justice

The possible improvement of access to justice is one of the Mediation Act, 2023's most important effects. Mediation offers parties a quicker, more adaptable, and frequently less combative means of resolving disputes. Enforceable mediated settlements lessen the need for drawn-out litigation by giving parties the assurance that their efforts will produce a legally binding result. This is especially helpful in legal conflicts involving businesses, families, and other situations where reputation and relationships are crucial.

Comparative Perspective

A number of nations have acknowledged the enforceability of mediated settlement agreements. Clear legal frameworks that treat mediated settlements as legally binding and enforceable have been established in nations including Singapore, the UK, and Australia. These global best practices are in line with India's Mediation Act, 2023, which encourages trust in the Indian mediation ecosystem among both foreign and local parties.

Future Outlook

The Mediation Act of 2023 has the potential to revolutionise dispute settlement in India. A number of patterns are anticipated as courts, practitioners, and parties become more familiar with the Act:

- 1. Increased Use of Mediation:** With statutory enforceability, parties are more likely to opt for mediation before resorting to litigation.
- 2. Development of Jurisprudence:** Courts will gradually develop case law clarifying nuances of enforceability, challenge procedures, and mediator responsibilities.
- 3. Professionalization of Mediators:** The Mediation Council of India will standardize training, certification, and ethical guidelines, ensuring high-quality mediation services.
- 4. Integration with Online Platforms:** Technology will play a key role, with online mediation platforms facilitating access for parties across India, particularly in remote regions.

Conclusion

A historic law known as the Mediation Act, 2023, firmly establishes mediation as a reliable, effective, and legally binding method of resolving disputes in India. The Act promotes a culture of peaceful dispute resolution, improves access to justice, and lessens the load on courts by giving mediated settlement agreements formal recognition and enforceability. The Act offers a solid basis, even though there are still practical issues, especially with regard to enforcement and quality control. The Indian legal system is anticipated to undergo a significant transition towards mediation as jurisprudence advances and early 2025 cases establish precedents, which will be advantageous to plaintiffs, practitioners, and the judiciary in equal measure.

This article emphasises the importance of the Mediation Act of 2023, stresses and underscores the enforceability of mediated settlements, and offers a plan for its efficient execution, ensuring that mediation evolves from a mere alternative to a robust pillar of India's dispute resolution framework.



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