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Resolving Civil-Commercial Disputes through Mediation in Pakistan: Legal Framework, Sector-Specific Application, and Digital Trends

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ABSTRACT

Mediation is increasingly recognized as an efficient and cost-effective alternative to litigation for resolving civil-commercial disputes. This paper examines the role of mediation in Pakistan, analyzing its legal framework, sector-specific applications, and emerging digital trends. The study differentiates mediation from litigation and arbitration, detailing the mediation process, enforceability of settlements, and the roles of mediators and lawyers. It evaluates Pakistan's legal landscape, including constitutional and statutory provisions, institutional mechanisms, and judicial efforts to promote mediation. The research highlights mediation's application in corporate, intellectual property, and taxation disputes, along with cross-border implications and global best practices. Additionally, it explores digital mediation trends, such as Online Dispute Resolution (ODR), showcasing technology's transformative potential. The findings underscore mediation's growing significance in Pakistan as a viable alternative to traditional litigation, offering efficiency and accessibility in dispute resolution.

Introduction

> "*The notion that ordinary people want black-robed judges and well dressed lawyers and fine courtrooms as settings to resolve their disputes is not correct. People with problems, like people with pains, want relief, and they want it as quickly and inexpensively as possible.*"[1]

The global legal landscape has witnessed a paradigm shift toward Alternative Dispute Resolution (ADR), specifically *Mediation*. *Mediation* is a structured, voluntary process in which a neutral third party, labelled as a *Mediator*, facilitates disputing parties with unbiased communication and negotiation in their conflict-resolution. Unlike a judge or an arbitrator, the mediator does not impose a decision but instead helps parties identify issues, explore solutions, and reach a mutually acceptable agreement. This dispute resolution practice is emerging as a cornerstone for alleviating judicial backlog and enhancing access to justice. Countries such as Turkey and Italy exemplify this trend, reporting significant success in resolving disputes efficiently; evidenced by Turkey's resolution of 30,828 mediation cases in a month and Italy's systemic reforms fostering public trust[2]. In Pakistan, however, persistent challenges in court efficiency underscore the urgency for robust ADR mechanisms. Data from the Law and Justice Commission of Pakistan (LJCP) reveals a 2.2% net increase in pending cases across High Courts by June 2024, with civil disputes constituting 82% of this backlog. Similarly, district judiciary systems face overwhelming pressure, with 1.86 million pending cases, 63% of which are civil[3]. This context highlights the critical need to institutionalize mediation as a viable supplement to traditional litigation, particularly in civil matters.

Despite its potential to transform dispute resolution, mediation in Pakistan remains hindered by a fragmented legal framework and jurisdictional ambiguities, particularly in civil commercial disputes. The absence of comprehensive legislation tailored to specialized domains such as intellectual property (IP) and taxation exacerbates these challenges. For instance, IP disputes demand mediators versed in dynamic statutory and international standards. However, Pakistan's current mediation regime, governed by outdated statutes and scattered civil procedure provisions, lacks sector-specific guidelines. This legal vacuum is compounded by weak enforcement mechanisms and inconsistent judicial recognition of mediated settlements, deterring parties from opting for mediation. Furthermore, systemic barriers including limited public trust in non-adversarial processes, inadequate mediator accreditation systems, and a lack of institutional synergy between courts and mediation centers, stifle progress. Addressing these legal and structural gaps is critical to establishing mediation as a credible alternative to litigation in civil matters.

The integration of mediation into Pakistan's justice system faces additional complexities when applied to high-stakes civil disputes. In tax-related conflicts, for example, the absence of clear statutory mandates for mediation within revenue laws creates uncertainty, discouraging taxpayers and authorities from pursuing collaborative resolutions. Even in commercial sectors, where

[1] Dina R Janerson, 'Representing Your Clients Successfully in Mediation: Guidelines for Litigators' [1995] N.Y. Litigator 15, quoting Chief Justice Burger, *Speech at the 1985 Chief Justice Earl Warren Conference on Advocacy: Dispute Resolution Devices in a Democratic Society* (Roscoe Pound-American Trial Lawyers Foundation 1985).

[2] d'Urso L, 'How Turkey Went from Virtually Zero to 30,828 Mediations in Just One Month' (*Mediate.com*, 22February2018)<https://mediate.com/how-turkey-went-from-virtually-zero-to-30828-mediations-in-just-one-month/> accessed 20 March 2025

[3] Law and Justice Commission of Pakistan, Judicial Statistics: Mid-Year Report January to June 2024 (Law and Justice Commission of Pakistan 2024)<http://www.ljcp.gov.pk/reports/3bar.pdf> accessed 20 March 2025

mediation could alleviate pressure on overburdened courts, the lack of enforceable timelines and standardized procedures undermines efficiency. These challenges highlight the need for a unified legal framework that codifies mediation processes, clarifies jurisdictional boundaries, and mandates specialized training for mediators in technical fields. The digital era offers innovative avenues to overcome these barriers, yet Pakistan's legal infrastructure lags in harnessing technology for mediation. Online dispute resolution (ODR) platforms could mitigate geographic and economic disparities in access to justice, particularly for rural and marginalized communities. However, the adoption of digital mediation in Pakistan requires urgent legislative updates to validate e-agreements, ensure data privacy, and address cybersecurity concerns. Current laws, such as the *Electronic Transactions Ordinance 2002*, lack provisions specific to ODR, creating enforcement ambiguities. Additionally, digitization demands capacity-building initiatives to equip mediators with technical skills and to bridge the digital divide among users. By modernizing its legal framework to accommodate digital mediation, Pakistan could not only reduce its civil case backlog but also align its dispute resolution mechanisms with global advancements, fostering a more inclusive and efficient justice system. This paper examines mediation's evolving role in Pakistan's civil dispute resolution ecosystem, analyzing its legal foundations, sector-specific challenges, and the transformative potential of digital integration in fostering a more efficient and inclusive justice system.

Concept of Mediation

Mediation, as a mechanism for resolving civil and commercial disputes, has ancient roots, emerging independently across early civilizations. In Sumerian society (4500–1900 B.C.), the *Mashkim*[4] facilitated pre-litigation negotiations[5], embodying principles akin to modern mediators by encouraging parties to resolve conflicts autonomously. Similarly, Confucian philosophy in China (6th–5th century B.C.) prioritized communal harmony over adversarial litigation, institutionalizing mediation as a moral imperative rather than a legal formality[6]. Roman law further codified mediation through different names including *inter alia***,** *Intercessor* and *Conciliator*[7], embedding it within judicial frameworks[8]. Medieval Europe similarly favored mediation, with courts adjourning cases for *lovedays*[9] to promote amicable settlements[10]. These early practices underscore mediation's enduring role as a culturally adaptable, consensus-driven alternative to formal adjudication.

[4] *Mashkim* refers to a commissioner or official who weighed the merits of cases before they went to court, essentially acting as a mediator or facilitator in dispute resolution.

[5] Vinther J, 'The History of Mediation and Why It Is Still in Use Today' (*Mediate.com*, 16 April 2021) <https://mediate.com/the-history-of-mediation-and-why-it-is-still-in-use-today/> accessed 24 March 2025

[6] Pei C, 'The Origins of Mediation in Traditional China' (1999) 54 Dispute Resolution Journal 32-35

[7] In ancient Roman discourse, mediators were designated by a diverse array of Latin terminology, reflecting nuanced roles and contexts. Scholarly sources identify terms such as *internuncius* (messenger-intermediary), *medium* (neutral party), *intercessor* (intervener or advocate), *phlantropus* (potentially denoting benevolent intervention, though the term's usage warrants philological scrutiny), *interpolator* (one who intervenes to amend), *conciliator* (reconciler), *interlocutor* (negotiating speaker), and *interpres* (interpreter or mediator of meaning). The term *mediator* itself, derived from *medius* ("middle"), ultimately became the most direct lexical counterpart to the modern conception of mediation.

[8] Miranda A, 'The Origins of Mediation and the A.D.R. Tools' [2014] Mediation in Europe at the cross-road of different legal cultures 9-24.

[9] *Loveday* or *dies amoris* (Latin), was a day set aside for arbitration and amicable resolution of disputes, particularly among the nobility, offering an alternative to common law.

[10] 'The Evolution of Mediation' (*Global Law Experts*, 28 August 2023) <https://globallawexperts.com/the-evolution-of-mediation/> accessed 24 March 2025

Mediation in the United States has historical roots in both Indigenous practices and European traditions. Long before European settlers arrived, Native American societies employed communal dispute resolution methods, emphasizing collaborative dialogue and consensus. The settlers later introduced court-sponsored mediation models from England, blending them with local practices[11]. The formal integration of mediation into U.S. law began in the late 19th century. In 1878, Maryland became the first state to establish a legal framework for settling labor disputes through legislation. Over the next decade, three more states; Pennsylvania (1883), New York (1886), and Massachusetts (1886), adopted similar laws. These early statutes typically included provisions for mediation, arbitration, and investigation, often culminating in a public report on the findings[12]. By the early 20th century, mediation gained prominence as a tool to address labor conflicts, aiming to prevent strikes and stabilize negotiations between workers and employers. However, formal legislative recognition expanded significantly later, with key mediation-related laws enacted in the 1970s and 1980s. These laws institutionalized mediation's role in resolving disputes across various sectors, including labor, civil rights, and family law[13].

Mediation in India draws from ancient traditions such as the *Panchayat* system, where village elders resolved community disputes, and *Mahajans* or tribal *panchas*, who mediated commercial and tribal conflicts with a focus on harmony. British colonialism introduced adversarial litigation, overshadowing these informal practices. Post-independence reforms, including Arbitration & Conciliation Act, 1996 and the Civil Procedure Code Amendment Act, 2002 (particularly amendment in Section 89), revived mediation as a formal legal mechanism[14]. A landmark 2005 Supreme Court ruling[15] mandated court referrals to ADR, accelerating its integration into the judiciary. Today, traditional forums like *Lok adalats* (public courts for swift settlements) coexist with modern mediation frameworks, reflecting a blend of historical customs and contemporary legal reforms.

Litigation vs. Arbitration vs. Mediation

"Litigation is not trial. It is preparing for the trial that, 95 percent of the time, will not happen."[16]

Litigation, arbitration, and mediation are three distinct ways to resolve disputes. In litigation, a judge or court decides the outcome after evaluating evidence and legal arguments. This process is formal, follows strict legal procedures, and focuses on determining who is right or wrong based on past actions. It is public, often lengthy, and involves non-refundable court fees. Arbitration is similar to litigation but more private and flexible. An arbitrator (or panel) chosen by the parties or court acts like a judge, makes a binding decision, and follows rules set by arbitration laws. While faster than litigation, it still involves formal hearings and costs like arbitrator fees. Unlike both, mediation is a cooperative process where a neutral mediator helps parties negotiate a solution

[11] Razo C, Ferguson D and Lewis RL, 'Mediation in USA' (*Lexology*, 9 September 2019) <https://www.lexology.com/library/detail.aspx?g=1afc5951-1db6-4f91-8e3b-500022484dbd> accessed 25 March 2025

[12] Barrett JT, The Origin of Mediation: The United States Conciliation Service in the U.S. Department of Labor (Friends of FMCS History Foundation 1995) 237.

[13] Razo, Ferguson and Lewis (n 11).

[14] Xavier A, 'Mediation: Its Origin and Growth in India.' (2005) 27 Hamline Journal of Public Law & Policy 275

[15] The Supreme Court of India ruled in ***Salem Advocate Bar Association v. Union of India* (*AIR 2005 SC 3353*)** that courts must refer disputes to mediation, conciliation to make ADR mandatory.

[16] Phillips BA, *The Mediation Field Guide: Transcending Litigation and Resolving Conflicts in Your Business or Organization* (1st edn, Jossey-Bass 2001)

themselves. It is informal, voluntary, and focuses on future interests rather than past faults, allowing creative and mutually beneficial outcomes.

The key differences lie in control, speed, and cost. Litigation and arbitration are adversarial, with outcomes imposed by a third party, while mediation empowers parties to shape their own agreement. Litigation is rigid, public, and expensive, whereas arbitration offers privacy but retains formality. Mediation, however, is faster, cheaper, and confidential. For example, in court-linked mediation, parties can even get court fees refunded if they settle. Unlike litigation or arbitration, mediation encourages open communication, preserves relationships, and allows flexible solutions like payment plans or apologies, which courts or arbitrators cannot order[17].

Mediation's advantages make it stand out. It gives parties full control over the outcome, unlike litigation or arbitration where decisions are binding and appealable. Mediation is voluntary, so either side can walk away, ensuring fairness and reducing power imbalances. It is also confidential, protecting privacy and fostering honest dialogue. By focusing on future interests rather than legal technicalities, mediation often resolves disputes permanently, avoiding prolonged appeals. It saves time and money, maintains relationships, and allows creative solutions tailored to both parties' needs. For instance, a business dispute settled through mediation might include partnership repairs, while a court or arbitrator would only assign blame or compensation. These benefits make mediation ideal for those seeking a respectful, efficient, and lasting resolution. Hence, Professor Jacqueline Nolan-Haley, Director the Dispute Resolution Program and the Mediation Clinic at Fordham Law School rightly writes,

> *"Mediation once offered disputing parties a refuge from the courts. Today it offers them a surrogate for arbitration."*[18]

Mediation is advantageous because all discussions in the mediation proceeding are 'without prejudice,' meaning they cannot be used as evidence if the case goes to court[19]. Additionally, both parties must consent before any details or outcomes are disclosed, and in civil disputes, you decide what information to share with the other side. The process is confidential and supportive, with a mediator facilitating communication and helping both parties reach a solution. Unlike court proceedings, which are often public, mediation keeps disputes private. It also helps preserve relationships by promoting cooperation rather than confrontation.

Mediation Process and Strategies for Resolving Disputes

There are two primary forms of mediation; court-ordered and private mediation. The first type, *Court-annexed Mediation*, occurs when a judge refers a pending case to mediation under legal provisions like Section 89 of the Code of Civil Procedure, 1908, or any other relevant statute. The second type, *Private Mediation*, involves professional mediators who provide dispute resolution services for a fee to individuals, corporations, government agencies, and even courts. This form of mediation is used for both pre-litigation disputes and cases already filed in court. Both types aim to facilitate resolution outside traditional litigation but differ in their initiation and scope.

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[17] Kalanauri Z, 'Mediation: A Magical Tool for Dispute Resolution' (*Academia.edu*, 16 November 2019) <https://www.academia.edu/40952708/MEDIATION_A_MAGICAL_TOOL_FOR_DISPUTE_RESOLUTION> accessed 25 March 2025

[18] Nolan-Haley J, 'Mediation: The New Arbitration' (2012) 17 Harvard Negotiation Law Review 61.

[19] 'A Guide to Civil Mediation' (*gov.uk*) <https://www.gov.uk/guidance/a-guide-to-civil-mediation> accessed 1 April 2025

The mediation process, though flexible, follows a structured approach to ensure fair dispute resolution. The process depends on two key factors; *the parties' willingness to resolve their dispute* and *the mediator's skill in guiding them toward agreement*[20]. The mediation process generally begins with the mediator's opening statement, followed by each party's opening statements, then proceeds to joint discussion and private caucuses before potentially moving to joint negotiation if necessary and ultimately concluding with closure[21]. This structured yet flexible approach ensures fair and productive discussions while keeping the focus on mutual agreement. Christopher Moore's model[22] expands on these basics with more detailed stages for complex disputes. The main stages include:

1. *Opening the Mediation Session*
2. *Information Exchange & Clarification*
3. *Agenda Setting & Issue Identification*
4. *Exploring Interests & Needs*
5. *Generating Settlement Options*
6. *Evaluating Options & Final Bargaining*
7. *Formalizing the Agreement*

1. Opening the Mediation Session

The mediation process begins with the *mediator's opening statement*, which serves to introduce all parties involved and establish the framework for the session. The mediator clearly explains their role as a neutral and confidential facilitator, outlines the procedures to be followed (including the potential use of private caucuses), and sets behavioral guidelines to ensure productive discussions. This initial phase is crucial for creating a structured environment where parties feel comfortable engaging in open dialogue. Following this, *each party is given the opportunity to present their opening statements*, where they can share their perspectives, including their underlying interests, needs, and positions. These statements often incorporate historical context, non-negotiable demands, or procedural concerns, providing a foundation for the subsequent discussion. Cultural considerations play a significant role in this stage, as high-context cultures may favor more informal and indirect communication styles, while low-context cultures typically prefer explicit, structured, and direct exchanges. Recognizing and adapting to these cultural differences is essential for fostering effective communication and mutual understanding from the outset of the mediation process. For instance, Moore in his book, *The Mediation Process* highlights how cultural norms vary; speech patterns viewed as interruptions in some societies may represent enthusiastic participation in others[23].

2. Information Exchange & Clarification

During the information exchange and clarification stage, the mediator plays a key role by using active listening, paraphrasing, summarizing, and asking clarifying questions. These techniques help the parties express themselves clearly, and the mediator assists them in organizing their thoughts while breaking down complex issues into simpler parts. The mediator also works to

[20] Kalanauri Z,'Mediation Process' (*zafarkalanauri.com*, August 2024) <https://zafarkalanauri.com/wp-content/uploads/2024/08/Mediation-Process.pdf> accessed 26 March 2025

[21] Cara O'Neill A· U of the PMS of L, 'Mediation: The Six Stages' (*www.nolo.com*, 26 December 2024) <https://www.nolo.com/legal-encyclopedia/mediation-six-stages-30252.html> accessed 26 March 2025

[22] Moore CW, *The Mediation Process: Practical Strategies for Resolving Conflict* (4th edn, Jossey-Bass & Pfeiffer Imprints, Wiley 2014)

[23] ibid.

maintain a positive climate by controlling emotional outbursts, enforcing ground rules, and keeping discussions focused on the important issues. By doing this, the mediator ensures that communication remains productive and that both parties feel heard and understood[24].

3. Agenda Setting & Issue Identification

During the stage of exploring interests and needs, mediators help parties move beyond their stated positions (what they demand) to uncover their true interests (why they want it). They use indirect methods like testing by reflecting back interests and hypothetical modeling, or direct approaches such as questioning and brainstorming. By identifying these underlying motivations, the mediator then helps create a joint problem statement that combines both parties' interests, which encourages cooperation and collaborative problem-solving rather than confrontation. This process builds understanding and helps find solutions that address everyone's core needs[25].

4. Exploring Interests & Needs

In mediation, exploring interests and needs is a crucial step. Parties often state their positions (what they demand) without explaining their real interests (why they want it). The mediator helps uncover these hidden interests to find better solutions[26]. They use indirect methods like testing, where they reflect back what they hear, and hypothetical modeling. Direct methods include asking questions and brainstorming together. When both sides understand each other's needs, the mediator helps create a joint problem statement[27]. This statement combines both parties' interests and encourages them to work together. By focusing on interests rather than positions, mediation becomes more productive and solutions become more satisfying for everyone.

5. Generating Settlement Options

The mediation process then moves to creating possible solutions. It is said, “Impasse is in the eye of the beholder”[28]. In mediation, this means that what appears to be a deadlock may simply be a lack of creative solutions. Mediators help both sides come up with settlement options that work for everyone. They usually focus on interest-based bargaining, which looks for win-win answers. Some cultures may use positional bargaining instead, where each side starts with fixed demands. There are several ways to find good solutions. Brainstorming lets people share ideas freely without criticism. Keeping some parts of the current situation can help when the relationship is important. Trading concessions or combining issues can balance different needs. Sometimes outside experts can help with difficult problems. The best agreements cover all important issues clearly. They include specific details about how to make them work. These solutions should last long-term and have ways to make sure they're followed. This step-by-step approach helps turn conflicts into agreements that satisfy everyone's main concerns. Working together creates better results than fighting over positions.

[24] Ibid 209. (According to Moore, the key priority for conflicting parties during this stage is to optimize the exchange of correct and reliable information.)
[25] Ibid 243.
[26] Fisher R, Ury W and Patton B, *Getting to Yes: Negotiating Agreement without Giving In* (Penguin Books 2011)
[27] Moore (n 22).
[28] Phillips (n 16).

6. Evaluating Options & Final Bargaining

After generating possible solutions, the mediation moves to evaluating options and final bargaining. The mediator helps both parties understand their settlement range, which shows the space between what they ideally want (target point) and what they can accept (resistance point). They also consider their BATNA - Best Alternative to a Negotiated Agreement. Several bargaining strategies can help reach a solution. With *Incremental Convergence*, parties make small concessions until they find middle ground[29]. Sometimes they use *Leap-to-agreement* when suddenly accepting a full proposal makes sense. Another approach is *Agreement-in-principle*, where they first agree on general ideas before working out details. When they can't agree on substance, they might choose *Procedural solutions* like arbitration. The mediator guides this process to help find fair solutions that work for everyone[30].

7. Formalizing the Agreement

The final stage of mediation involves formalizing the agreement in clear terms. The implementation plan should specify measurable performance criteria, outline enforcement methods, and include procedures for handling future disagreements. Parties can formalize their agreement through verbal commitments for simple matters, but written contracts work better for complex cases - these may be kept private or made public depending on the situation. While voluntary compliance is ideal, some agreements require legal enforcement to ensure all parties follow through, particularly when dealing with binding contracts or high-stakes outcomes. The mediator helps structure these elements to create a durable resolution that prevents future disputes.

The Settlement Agreement and Enforceability

When mediation successfully resolves a dispute, the settlement agreement becomes a legally binding contract under contract law. If one party breaks the agreement, the other can take the case to court to enforce it. However, unlike arbitral awards, mediated settlements cannot be enforced internationally under the 1958 New York Convention[31]. To overcome this limitation, parties can turn their mediated settlement into a "consent award" through arbitration. An arbitral tribunal formally records the settlement terms as an award, making it enforceable under the New York Convention. In Pakistan, such awards gain enforceability through the mechanisms established by the *Recognition and Enforcement of Arbitration Agreements and Foreign Arbitral Awards Act of 2011*. This process ensures the agreement can be recognized and enforced across borders, provided all legal conditions are met[32]. So therefore, Choosing a binding mediation option is wise because it ensures the settlement is legally enforceable. A written agreement prevents misunderstandings, exposes overlooked issues, and encourages compliance. Without a written record, enforcing the deal becomes difficult, as mediators often cannot testify in court due to confidentiality rules. Therefore, always finalize the agreement before leaving mediation to avoid disputes later[33].

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[29] Staff P, '10 Hard-Bargaining Tactics & Negotiation Skills' (*PON*, 9 January 2025) <https://www.pon.harvard.edu/daily/batna/10-hardball-tactics-in-negotiation/> accessed 26 March 2025

[30] Moore (n 22).

[31] 'Mediation Procedure - ICC - International Chamber of Commerce' (*ICC*, 22 March 2023) <https://iccwbo.org/dispute-resolution/dispute-resolution-services/adr/mediation/mediation-procedure/> accessed 26 March 2025

[32] ibid.

[33] Lovenheim P and Guerin L, *Mediate, Don't Litigate: Strategies for Successful Mediation* (Nolo 2004)

Role of Mediator in Mediation

The role of a mediator is to facilitate constructive dialogue between disputing parties while maintaining impartiality and fostering a fair negotiation process. Mediators do not impose decisions but instead guide discussions to help parties reach a mutually acceptable resolution. They ensure balanced participation, manage power dynamics, and create a respectful environment where all voices are heard. Key responsibilities include explaining the mediation process, upholding confidentiality, and avoiding conflicts of interest. Additionally, mediators may use techniques like caucusing (private meetings) to address sensitive issues and help parties explore potential solutions. Their influence lies in structuring the process, controlling communication flow, and ensuring progress without taking sides.

A mediator also plays a crucial role in empowering parties to make informed decisions by providing clarity on the process and their options. They assist in overcoming communication barriers, reframing issues, and identifying common ground while preventing coercion or unfair advantage. Mediators must adhere to ethical standards which emphasize neutrality, confidentiality, and self-determination. By maintaining a structured yet flexible approach, mediators help disputants move toward sustainable agreements while preserving relationships. Ultimately, their effectiveness depends on balancing procedural control with impartiality, ensuring that outcomes are determined solely by the parties involved.

Role of Lawyer in a Mediation

"Let the lawyer become mediator, rather than [a] mere pleader.[34]*"*

Lawyers play an important role in mediation by providing legal advice and helping parties understand their rights. They assist in evaluating settlement options and ensure that any agreement reached is fair and legally sound[35]. Since mediation agreements can become binding contracts, lawyers help clients grasp the implications before signing. Their expertise is especially useful in cases involving complex legal matters, where guidance is crucial. However, lawyers can also create challenges in mediation if they become overly adversarial or dominate the process[36]. While their presence ensures legal protection, it may sometimes slow down negotiations or increase tension. A good lawyer in mediation balances advocacy with cooperation, helping their client without disrupting the neutral and collaborative nature of the process. Their role is to support, not control, the discussions[37]. To achieve the maximum benefit of mediation, lawyers must possess proper knowledge of mediation[38]. Mediation not only reduces costs and shortens case duration but also alleviates the emotional toll of litigation. Crucially, mediated agreements protect parties' legal rights through mutual consent.

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[34] Kalanauri Z, 'Lawyers' Perspective: What Do Businesses Expect Commercial Mediation to Deliver' (*zafarkalanauri.com*, May 2020) <https://zafarkalanauri.com/wp-content/uploads/2020/05/Comercial-Mediation.pdf> accessed 26 March 2025

[35] ABU BAKAR ZR, TALHA ZR and AMIR, '2nd Asia Mediation Association Conference', *Sulh in the Malaysian Shariah Courts. Rediscovering Mediation in the 21st Century.* (Malaysia's Leading Law Publisher 2011) <http://barcouncil.org.my/conference1/pdf/16.SULHINTHEMALAYSIANSYARIAHCOURTS.pdf>

[36] Riskin L, 'Mediation and Lawyers' (1982) 43 Ohio State Law Journal 29 Available at SSRN: https://ssrn.com/abstract=1507248

[37] Brandon, 'What Is the Role of the Lawyer in Mediation? - Scottsdale Divorce Lawyer: Owens & Perkins, Attorneys at Law' (10 February 2023) <https://oplaw.com/blog/2018/april/what-is-the-role-of-the-lawyer-in-mediation/> accessed 28 March 2025

[38] Barnes BE, *Culture, Conflict, and Mediation in the Asian Pacific* (University Press of America 2007)

- **Pre-Mediation Role**

Pre-mediation preparation is crucial for a successful mediation. Lawyers must explain the mediation process to their clients. They should compare it to other dispute resolution methods like litigation or negotiation. Mediation is a problem-solving process that encourages open discussion and creative solutions. Lawyers should highlight the mediator's role as a facilitator and guide. Clients often speak for themselves and make decisions directly. However, lawyers still play a key role in advancing the process. Clients should be informed about private discussions with the mediator or their lawyer. Lawyers and clients must review the dispute, possible outcomes, and settlement flexibility. They should discuss the minimum acceptable terms and the risks of not settling, such as litigation costs and delays. Essential documents must be prepared and reviewed before mediation. A complete resolution depends on having all necessary information available.

- **Lawyers during Mediation Proceeding**

During mediation, lawyers must change their usual approach. Instead of arguing like in court, they focus on guiding and supporting their clients. They let the client take the lead while offering advice and information. Lawyers avoid aggressive tactics and help keep discussions calm and productive. They explain the pros and cons of different solutions privately to help clients make smart choices. Their main job is to help find fair solutions, not to "win" against the other side. Good lawyers in mediation act as problem-solvers, not fighters. They help clients understand risks, stay focused, and explore creative options. Mediators appreciate when lawyers cooperate instead of causing conflict. Some lawyers find this shift difficult at first, but training can help. When lawyers adapt well, mediation works better for everyone. The goal is a fair agreement, not a courtroom battle[39].

- **Roles of Lawyers in Mediation: Olivia Rundle's Spectrum**

Lawyers participate in mediation in various ways, depending on the legal context and their professional approach. In some cases, such as workplace injury claims, lawyers routinely attend mediation alongside their clients, while in family disputes, they often provide advice before and after mediation rather than attending in person. Zafar Kalanauri in his article[40] referred *Olivia Rundle's spectrum*[41]. Rundle's spectrum outlines five distinct roles lawyers can take in mediation, ranging from minimal involvement to full control over the process. This spectrum allows lawyers to adapt their approach based on the needs of the case and the client.

At one end of the spectrum is the *Absent advisor*, where lawyers prepare clients for mediation but do not attend the session. The *Advisor observer* role involves lawyers being present to offer private advice without actively engaging in discussions. A more involved role is the *Expert contributor*, where lawyers provide legal input during mediation but refrain from direct negotiation. The *Supportive professional participant* takes an active role, assisting clients in negotiations and helping shape solutions while maintaining client autonomy.

The most lawyer-driven role is the *Spokesperson*, where the lawyer leads discussions and negotiates on the client's behalf. This approach is particularly useful when clients face power imbalances or other challenges that limit their participation. Rundle's model recognizes that

[39] Kalanauri Z, 'Lawyers Role in Mediation' (*zafarkalanauri.com*, December 2020) <https://zafarkalanauri.com/wp-content/uploads/2020/12/Lawyers-Role-in-Mediation.pdf> accessed 28 March 2025

[40] ibid.

[41] Rundle, O, 'A spectrum of contributions that lawyers can make to mediation.' (2009) 20(4) AUSTRALASIAN DISPUTE RESOLUTION JOURNAL 220.

lawyers may shift between these roles depending on the mediation's stage and the client's needs. For example, a lawyer might start as an *Advisor observer* to gather information before transitioning to a more active role later in the process.

Rundle's framework provides valuable guidance for lawyers navigating mediation, ensuring they balance legal expertise with client empowerment. The *supportive professional participant* role is especially effective, as it combines legal advice with collaborative problem-solving. By understanding these different roles, lawyers can better support their clients, whether in court-linked mediation or early dispute resolution. This flexibility helps maximize the benefits of mediation while maintaining fairness and client-centered outcomes.

- **Lawyers as Mediator**

Mediation is a process built on fairness and neutrality. The mediator does not take sides or provide legal advice, as their role is to help parties reach a voluntary agreement. While mediators must remain impartial, a lawyer-mediator brings valuable legal expertise to the process. They can spot important legal issues that need inclusion in the final agreement, unlike a non-lawyer mediator who may lack this understanding[42]. This ensures the agreement is thorough and fair, while also allowing the lawyer-mediator to guide parties toward clear decisions. Their legal knowledge enables them to draft stronger agreements that are less likely to be challenged later.

Lawyer-mediators use their skills to create precise and enforceable documents, reducing the risk of outside lawyers overturning the agreement. This saves time and minimizes future disputes, benefiting parties through a mediator skilled in both conflict resolution and legal principles[43]. However, lawyers acting as mediators must still follow strict ethical rules to maintain impartiality[44]. They cannot favor one party, even if they have prior connections, and many jurisdictions prohibit them from mediating cases involving past clients. Some allow it but require independent legal advice to ensure fairness. These rules preserve trust in the mediation process[45].

The focus remains on clear communication rather than legal precision, with mediators drafting agreements in simple, accessible language. Even when the mediator is a lawyer, they must avoid acting in a legal advisory role during the process[46]. Many jurisdictions discourage lawyer involvement in mediation, directing parties to seek separate legal counsel when needed. Interestingly, about one in seven mediators are lawyers, though they often conceal this fact. Their training emphasizes withholding legal advice to maintain neutrality and keep the process centered on mutual agreement[47]. This balance ensures mediation stays fair, voluntary, and effective for all parties involved.

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[42] Riskin (n 35).

[43] ibid.

[44] 'Mediation Ethics: Ensuring Fairness and Neutrality in Conflict Resolution' (*The Mediation Group*, 4 April 2024) <https://themediationgroupinc.com/mediation-ethics/#:~:text=A%20mediator's%20primary%20ethical%20obligations,power%20dynamics%20among%20the%20disputants.> accessed 29 March 2025

[45] PIRIE AJ, 'THE LAWYER AS MEDIATOR: PROFESSIONAL RESPONSIBILITY PROBLEMS OR PROFESSION PROBLEMS?' (1985) 63 The Canadian Bar Review 378

[46] Menkel-Meadow C, 'Pursuing Settlement in an Adversary Culture: A Tale of Innovation Co-Opted or "The Law of ADR"' (2017) 19 Florida State University Law Review 1

[47] PIRIE (n 45).

- **Lawyers' Role: Help or Hindrance in Mediation?**

Summing up the discussion, Lawyers play a significant role in mediation processes due to their common involvement in dispute resolution. They assist clients by analyzing litigation risks and promoting settlement discussions to avoid prolonged court battles[48]. However, critics contend that lawyers may introduce adversarial tendencies into mediation, potentially transforming it into a more contentious procedure[49]. Research indicates that excessive lawyer control in court-annexed mediation can diminish party autonomy over outcomes, thereby reducing mediation's advantages compared to conventional litigation[50]. Lawyers' approaches to mediation vary according to their preferred techniques and case strategies, with a major concern being their occasional tendency to prioritize professional judgment over client preferences. Gender-based differences in mediation styles have been observed, with female practitioners generally demonstrating more collaborative, relationship-oriented methods compared to their male counterparts who often adopt more assertive approaches[51]. Notwithstanding these potential drawbacks, legal representatives remain crucial for navigating mediation procedures, interpreting dispute resolution regulations, and safeguarding client interests through active participation. Their involvement can either facilitate mutually beneficial agreements or, if improperly managed, compromise the mediation effectiveness[52].

Legal Framework of Mediation

In Pakistan, the legal framework for mediation is shaped by a combination of international commitments, constitutional principles, statutory provisions, and judicial developments. Internationally, Pakistan's endorsement of instruments such as the *Singapore Convention on Mediation* reflects its alignment with global ADR trends[53]. Domestically, while the *Constitution of Pakistan 1973* does not explicitly mention mediation, provisions such as Articles 153–155 implicitly support ADR mechanisms. Statutory recognition of mediation is provided in laws like the *Alternative Dispute Resolution Act 2017 (though Islamabad specific)*, the *Recognition and Enforcement of Arbitration Agreements and Foreign Arbitral Awards Act 2011*, and Section 89-A of the *Civil Procedure Code 1908 (CPC)*, among other statutory provisions that facilitate court-referred mediation. Additionally, the judiciary has further strengthened mediation through proactive rulings, promoting out-of-court settlements and establishing court-annexed mediation centers.

Global Landscape of Civil Commercial Mediation

Pakistan's Federal Cabinet approved signing the Singapore Convention on Mediation (SCM) in December 2024, joining 57 other signatory nations[54]. This move follows Pakistan's participation in

[48] Douglas K and Batagol BM, 'The Role of Lawyers in Mediation: Insights from Mediators at Victoria's Civil and Administrative Tribunal' (2014) 40 Monash University Law Review 758

[49] Menkel-Meadow (n 46).

[50] King, M., Freiberg, A., Batagol, B., & Hyams, R, *Non-Adversarial Justice* (The Federation Press 2014)

[51] Relis T, *Perceptions in Litigation and Mediation: Lawyers, Defendants, Plaintiffs, and Gendered Parties* (Cambridge University Press 2011)

[52] Brown CJ, 'Facilitative Mediation: The Classic Approach Retains Its appealCarole J.' (2004) 4 Pepperdine Dispute Resolution Law Journal 279 Available at: https://digitalcommons.pepperdine.edu/drlj/vol4/iss2/9

[53] Drossos M, Dalebroux J, 'Pakistan Signs the Singapore Convention' (*White & Case LLP*, 20 December 2024) <https://www.whitecase.com/insight-alert/pakistan-signs-singapore-convention> accessed 1 April 2025 (On 17 December 2024, Pakistan's Federal Cabinet approved joining the UN's Singapore Convention on Mediation, aligning with 57 other signatory nations)

[54] ibid.

Singapore Convention Week and aligns with a Supreme Court ruling[55] advocating mediation as a more efficient dispute resolution method. Once ratified, Pakistan will become a full party to the Convention, strengthening its role in international commercial mediation.

- **Singapore Convention on Mediation**

The SCM provides a uniform framework for enforcing international commercial settlement agreements resulting from mediation. It ensures such agreements are binding and enforceable through a simplified process, promoting trade and mediation as an alternative to litigation. It mandates enforcement of mediated settlements as both a "*sword*" (compliance) and "*shield*" (preclusion of relitigation)[56]. However, it excludes consumer, family, inheritance, and employment disputes, as well as agreements already enforceable as court judgments or arbitral awards[57]. Settlement agreements under the SCM can be directly enforced in member states or used as proof that a dispute has been resolved[58]. However, enforcement can be refused on specific grounds, such as incapacity of a party, invalidity of the agreement, mediator misconduct, or public policy conflicts[59]. Countries can also make reservations, limiting the Convention's application to government-related disputes or requiring mutual consent for its use[60].

- **UNCITRAL Model Law on International Commercial Mediation**

The UNCITRAL Model Law (2018) supports mediation by providing standardized rules for mediation procedures and enforcement of settlement agreements. Originally called the Model Law on Conciliation (2002), it was updated to replace "*Conciliation*" with "*Mediation*" for clarity, without changing its legal effect. The Model Law helps countries modernize their mediation laws and can assist in implementing the SCM. The Model Law addresses key mediation aspects, including mediator appointment, confidentiality, and enforceability of agreements. It ensures legal certainty by preventing gaps in mediation procedures. Additionally, its Guide to Enactment helps countries draft mediation-friendly laws, making cross-border dispute resolution more predictable[61]. By adopting the SCM and potentially incorporating the UNCITRAL Model Law, Pakistan is modernizing its dispute resolution system. This shift promotes efficiency, reduces court backlogs, and aligns with global mediation standards, enhancing Pakistan's position in international trade. The move reflects a broader trend favoring ADR over traditional litigation.

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[55] PLD 2025 SC 1, [*Messrs. Mughals Pakistan (Pvt.) Limited V/s Employees Old Age Benefits Institution through Director Law, Lahore and others ., (Civil Appeals Nos. 256 & 257 of 2024)*]

[56] Schnabel T, 'Recognition By Any Other Name: Article 3 of the Singapore Convention on Mediation' (2019) 20 Cardozo Journal of Conflict Resolution 1181

[57] Art. 1,'United Nations Convention on International Settlement Agreements Resulting from Mediation (New York, 2018) (the "Singapore Convention on Mediation") Commission on International Trade Law' (*United Nations*) <https://uncitral.un.org/en/texts/mediation/conventions/international_settlement_agreements/> accessed 2 April 2025

[58] Ibid. (Art. 3 SCM)

[59] Ibid. (Art. 5 SCM)

[60] Ibid. (Art. 8 SCM)

[61] 'UNCITRAL Model Law on International Commercial Mediation and International Settlement Agreements Resulting from Mediation, 2018 Commission on International Trade Law' (*United Nations*) <https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/22-01363_mediation_guide_e_ebook_rev.pdf> accessed 2 April 2025

Mediation and Constitution of Pakistan 1973

Disputes between provinces or between the Federation and provinces over critical issues like water, energy, and resources are common in Pakistan. To resolve these conflicts, the Constitution of Pakistan, 1973, establishes the *Council of Common Interest (CCI)* as the primary forum, barring courts from intervening in matters under its jurisdiction. Articles 153–155 mandate that inter-provincial disputes, especially those related to water, must first go to the CCI before any judicial recourse. Article 155(6) explicitly prohibits courts from entertaining cases that fall (or should have fallen) under the CCI's authority, ensuring a streamlined process for conflict resolution. This framework emphasizes the state's duty to provide "*inexpensive and expeditious justice*" under Article 37(d), prioritizing administrative dispute resolution over lengthy court battles. While the Constitution clearly outlines the CCI's role, mandatory mediation in other disputes lacks explicit constitutional backing, despite Supreme Court judgments promoting it under Article 189[62]. These rulings, which bind all lower courts, have encouraged mediation as a faster, cheaper alternative to litigation.

Statutory Provisions on Mediation in Pakistan

Mediation in Pakistan has deep roots in its cultural, religious, and legal history. Before 1947, the region was part of British India, where local dispute resolution systems blended with British laws. The British recognized traditional methods like the *Village Panchayat system*, formalized under the *Village Courts Act, 1888*, allowing elders to mediate disputes. In Muslim-majority areas, Islamic practices such as *Sulh* (reconciliation) were widely used[63]. After independence, Pakistan kept many British-era laws but also incorporated Islamic principles into its legal system. Over time, formal mediation gained recognition through laws like the Alternative Dispute Resolution Act, 2017, which established a structured framework for mediation. Today, both traditional and modern mediation methods coexist, helping resolve disputes efficiently.

- **Civil Procedure Code 1908**

The Civil Procedure Code 1908, governed mediation practices in Pakistan, with Section 89-A (inserted in 2002) allowing courts to refer cases to ADR methods like mediation and conciliation with parties' consent. Additionally, Order X Rule 1-A permitted courts to adopt lawful ADR procedures, including mediation, if agreed upon by the parties. However, recent changes, vide *Punjab Alternate Dispute Resolution Act 2019*, have repealed these provisions in Punjab, replacing them with a more structured ADR mechanism. While these amendments are yet to be fully implemented across the province, they signify a shift toward a more formalized mediation framework[64]. This legal progression reflects Pakistan's commitment to integrating traditional and modern dispute resolution methods into its judicial system

- **ADR statutes in Pakistan**

Pakistan has developed a comprehensive legal framework for mediation through various ADR statutes. While the *Arbitration Act, 1940* did not explicitly mention mediation, courts often

[62] SOHAIL IB, 'Alternative Dispute Resolution: Mediation' (*Islamabad Policy Research Institute*, September 2024) <https://ipripak.org/wp-content/uploads/2024/09/Mediation-PB-1.pdf> accessed 2 April 2025

[63] Khan SOH and Abbasi MS, 'Legal Framework of Alternative Dispute Resolution (ADR) Mechanisms in Pakistan: A Comparative Study with Turkey, Malaysia, and Bangladesh' (2023) 2 Law and Policy Review 37

[64] Section 26,'THE PUNJAB ALTERNATE DISPUTE RESOLUTION ACT 2019 (Act XVII of 2019)' (*Punjab Laws Online*) <http://punjablaws.gov.pk/laws/2739.html#_ftnref9> accessed 2 April 2025

encouraged amicable settlements. The proposed *Arbitration Act, 2024* (not yet passed) introduces clearer mediation provisions, allowing arbitrators to facilitate settlements while ensuring impartiality[65]. Under Section 33, arbitral tribunals can record mediated agreements as binding awards.

The Alternative Dispute Resolution Act, 2017 (applicable in Islamabad Capital Territory) is Pakistan's first dedicated ADR law. It mandates court-referred mediation for civil disputes unless parties object or legal complexities arise. Mediation is conducted by a Panel of Neutrals (including lawyers and retired judges) or ADR centers within 30 days (extendable by 15 days). Successful mediations result in enforceable awards, while failed attempts revert to courts. The law also permits mediation in compoundable criminal cases, with no appeals against settlements in both cases. However, The *ADR Mediation Accreditation (Eligibility) Rules, 2023*[66] and *Alternative Dispute Resolution (Accreditation) Rules, 2023*[67] operationalize ADR Act, 2017 by introducing a structured accreditation system, ensuring mediation services align with global standards. Under the Act's Section 4 and 25, the Federal Government now requires ADR Centers and mediators to meet eligibility criteria, including training by recognized bodies (e.g., International Mediation Institute) and adherence to approved mediation frameworks. The Accreditation Committee, established under the 2023 rules, enforces accountability by reviewing applications quarterly, maintaining public registers of cases, and suspending non-compliant practitioners. This complements the Act's goal of promoting accessible, efficient dispute resolution while addressing gaps in quality control. Together, the 2017 Act and 2023 rules create a cohesive legal ecosystem: the Act provides the statutory foundation, while the rules enforce standardized practices, High Court compliance, and transparency, ensuring Pakistan's ADR framework remains credible, professional, and aligned with international best practices.

In Punjab, *the Alternative Dispute Resolution Act, 2019* allows mediation only with parties' consent in civil disputes, with a 6-month timeframe. Parties may select mediators or rely on court-provided lists. A key feature is confidentiality[68], and settlements are final and non-appealable[69]. Khyber Pakhtunkhwa's ADR Act, 2020 similarly promotes mediation for civil and criminal disputes. Civil cases are referred by courts or the Deputy Commissioner (within 6 months)[70]. A Saliseen Selection Committee (comprising judges, commissioners, and law enforcement) appoints mediators[71]. Like other ADR laws, proceedings are confidential, and outcomes are binding without appeal. These statutes collectively establish mediation as a fast, cost-effective, and confidential alternative to litigation across Pakistan, reducing court burdens while ensuring enforceable resolutions

- **Mediation under Corporate Laws**

Under Pakistan's *Companies Act, 2017*, Sections 276 and 277 establish a robust legal framework for mediation and conciliation, designed to resolve corporate disputes efficiently while minimizing adversarial litigation. *The Securities and Exchange Commission of Pakistan (SECP)*

[65] FIRST SCHEDULE of the proposed Arbitration Act, 2024

[66] Rules made by Federal Government under section 25 read with section 4 of the Alternative Dispute Resolution Act, 2017 (XX of 2017), vide SRO 210(I)/2023

[67] Rules made by Federal Government under section 25 read with section 4 of the Alternative Dispute Resolution Act, 2017 (XX of 2017), vide SRO 211(o)/2023

[68] Section 11 of THE PUNJAB ALTERNATE DISPUTE RESOLUTION ACT 2019.

[69] Ibid. Section 15

[70] Section 3 of THE KHYBER PAKHTUNKHWA ALTERNATE DISPUTE RESOLUTION ACT, 2020

[71] Ibid. Section 7 & 8

operationalizes this framework through the *Companies (Mediation and Conciliation) Regulations, 2018*[72], which encourages voluntary referral of disputes; such as conflicts between directors, shareholders, or creditors, to a structured mediation process. The SECP maintains a publicly accessible Panel of Mediators and Conciliators, comprising qualified professionals like retired judges, legal experts, and individuals with substantial corporate experience. Mediation can be initiated jointly by parties using a prescribed application form (MC Annexure-2) and a non-refundable fee, with proceedings conducted impartially within a strict 90-day timeline. Mediators facilitate collaborative dialogue through joint or separate sessions, aiming for mutually acceptable settlements. Successful resolutions are formalized in binding agreements submitted to the SECP, while unresolved cases revert to formal proceedings. This mechanism prioritizes cost-effectiveness, confidentiality, and the preservation of business relationships, offering a pragmatic alternative to protracted court battles.

The regulatory framework ensures accountability and transparency by mandating stringent ethical standards for mediators, including impartiality, integrity, and conflict-of-interest prohibitions. Mediators face removal for misconduct, criminal convictions, or unethical behavior, with parties empowered to report grievances to the SECP. The process is financially structured to ensure accessibility, with costs typically shared equally unless otherwise directed, and mediators authorized to request advance deposits for expenses. Non-compliance, such as refusal to participate or breach of settlement terms, may trigger penalties under Section 512 of the Companies Act, reinforcing the system's credibility. Complementing this, *Section 17* of *the Punjab Commercial Courts Ordinance, 2021* mandates that commercial disputes be referred to ADR mechanisms like mediation or arbitration once leave to defend or appeal is granted, institutionalizing out-of-court resolutions. Aligned with Order IX B of the Civil Procedure Code, this requirement embeds ADR into the litigation process, compelling parties to explore amicable solutions before proceeding to trial. By prioritizing timely, cost-efficient resolutions, the framework alleviates pressure on courts and encourages businesses to preserve commercial relationships. By institutionalizing mediation as a flexible yet accountable dispute resolution tool, Pakistan's legal framework fosters trust in alternative mechanisms, reducing judicial burdens, and promoting a culture of collaborative problem-solving in corporate governance.

- **Mediation in other Fiscal and Regulatory Laws**

The specified provisions under the Customs Act, 1969 (Section 195-C), Customs Rules, 2001 (Chapter XVII), Sales Tax Act, 1990 (Section 47-A), Sales Tax Rules, 2004 (Chapter X), Income Tax Ordinance, 2001 (Section 134-A), Income Tax Rules, 2002 (Rule 231-C), Federal Excise Act, 2005 (Section 38), Federal Excise Rules, 2005 (Rule 53), and Industrial Relations Ordinance, 2002 (Section 23) do not explicitly mention mediation as a standalone mechanism, however, they establish frameworks for ADR committees and authorities to settle disputes out of the court. These committees or relevant authorities are empowered to employ mediation, among other ADR techniques, to resolve fiscal and regulatory disputes between taxpayers and authorities. By facilitating negotiations and voluntary settlements, these provisions promote a collaborative approach to dispute resolution, reducing litigation delays and fostering amicable solutions. Though mediation is not expressly detailed, the broader ADR framework allows for its application, enhancing efficiency, easing judicial burdens, and maintaining constructive stakeholder relationships in tax and customs-related matters.

[72] SECP has notified these regulations under Section 512 read with Section 276 of the Companies Act, 2017 vide S.R.O. 227 (I)/2018. These regulations were earlier published S.R.O. 1208 (I)/2017 on November 22, 2017.

- **Mediation in Family disputes**

In Pakistan's legal landscape, mediation serves as a crucial tool for resolving family disputes amicably, with Sections 10 and 12 of the *Family Courts Act, 1964* mandating courts to prioritize reconciliation before formal adjudication. At the *Pre-trial stage*, judges are required to identify key disputes and actively facilitate compromise, particularly in emotionally charged cases such as divorce and *khula*. This mediation-first approach ensures that families exhaust all possibilities of reconciliation before litigation. Even if initial efforts fail, *Section 12* compels courts to make a final attempt at settlement before rendering judgment, reinforcing Pakistan's policy of preserving familial harmony. Family mediation under this framework balances legal rights with social welfare and ensures fair financial settlements (such as *mehr* adjustments in *khula* cases) while minimizing relational damage. By institutionalizing mediation in family disputes, Pakistan aligns with global best practices, offering a less adversarial, more humane alternative to conventional litigation.

- **Mediation under the Punjab Local Government Act, 2013**

In resolving local disputes through Mediation, the *Punjab Local Government Act, 2013* established *Panchayats* (in villages) and *Musalihat Anjumans* (in urban areas) as formal mediation forums[73]. These bodies, composed of nine impartial members including at least two women, operate at the grassroots level to facilitate amicable settlements for civil, criminal (compoundable), and community disputes within their jurisdiction. The law ensures accessibility by allowing disputes to be referred directly by parties, courts, or even police stations, while maintaining procedural flexibility through informal proceedings that exclude legal practitioners to reduce adversarial tensions. Notably, the framework incorporates safeguards against partiality by requiring conflict-of-interest disclosures and allowing for member replacement, to uphold fairness. Successful settlements are documented and can be formalized as court decrees, blending traditional dispute resolution with legal validity. By institutionalizing these community mediation forums, Pakistan not only reduces the burden on conventional courts but also promotes socially harmonious, culturally-sensitive resolutions that align with local norms, demonstrating a unique model of participatory justice.

Role of Judiciary in advancing Mediation in Civil Commercial disputes

Pakistani courts have progressively institutionalized mediation, transitioning from tax and commercial disputes to a comprehensive pro-ADR framework. Recent judgments prioritize mediation in civil, corporate, and public disputes, driven by efficiency, cultural relevance, and systemic unclogging. The judiciary's stance echoes global principles by positioning mediation not as an alternative but as a cornerstone of Pakistan's justice system.

In a landmark ruling of *Mughals Pakistan (Pvt.) Limited V/s Employees Old Age Benefits Institution*[74], the Supreme Court of Pakistan redefined mediation as a core component of the justice system, asserting it as a fundamental right within litigation. Authored by *Justices Syed Mansoor Ali Shah (Justice Ayesha A. Malik, and Justice Aqeel A. Abbasi was also included in the bench)*, the judgment emphasizes that access to justice extends beyond courts to include participatory mechanisms like mediation. By prioritizing party autonomy over adversarial litigation, the Court highlighted mediation's role in empowering individuals to shape outcomes while ensuring efficiency and procedural fairness. Moreover, The ruling underscores mediation's practical

[73] Sections 96–99 of the Punjab Local Government Act, 2013.

[74] PLD 2025 SC 1; 2025 CLD 150

benefits: cost-effectiveness, time efficiency, and flexibility, enabling parties to resolve disputes faster, confidentially, and collaboratively. The Court advocated a *pro-mediation bias*, urging systemic prioritization of mediation as the default dispute resolution method[75]. This bias, rooted in the belief that mediated settlements yield more equitable results, aims to alleviate Pakistan's overburdened judiciary by diverting cases from courts, allowing them to focus on complex matters. Further aligning with Pakistan's traditions of community-led conflict resolution, the judgment positions mediation as a modern extension of culturally rooted practices. It also reaffirms the judiciary's commitment to ADR, stressing its dual role as a legal necessity and economic imperative. By reducing reliance on litigation, the Court envisions a justice system that is accessible, efficient, and respectful of cultural values, fostering equitable outcomes through collaboration.

In another judgment addressing a post-procurement contract dispute[76], *Justice Mansoor Ali Shah* reinforced the judicial imperative to prioritize mediation over litigation, drawing upon a robust foundation of international jurisprudence and scholarly discourse. Echoing *Justice Sandra Day O'Connor's* assertion that courts should serve as "*the endpoint, not the starting line*" for dispute resolution[77], Shah emphasized the necessity of exhausting alternative mechanisms before resorting to adjudication. His reasoning aligns with *former U.S. Chief Justice Warren E. Burger's* pragmatic view that litigants prioritize efficient relief over procedural formalities, as well as legal scholars *Roger Fisher, William Ury,* and *Hazel Genn*, whose works underscore mediation's capacity to transcend adversarial rigidity through interest-based negotiation and systemic efficiency. By advocating for a *pro-mediation bias*, Shah's judgment amplifies the global shift toward minimizing traditional trials, which risk becoming relics in a justice system increasingly oriented toward preserving relationships, reducing costs, and fostering mutually beneficial outcomes. This stance not only harmonizes with the principles outlined in prior analyses but also crystallizes the evolving paradigm where courts act as custodians of mediation's voluntary, consensus-driven ethos, rather than arbiters of zero-sum verdicts.

In *Commissioner Inland Revenue Vs. Messrs. RYK Mills*[78], the Supreme Court of Pakistan likened a show-cause notice to an ADR mechanism, underscoring its role in pre-litigation resolution. The Court highlighted that such notices allow recipients to present their case, potentially resolving disputes efficiently while conserving judicial resources. This approach aligns with the broader objective of promoting due process and reducing the burden on courts. Earlier, in *Federation of Pakistan Vs. Attock Petroleum Ltd.*[79], the Supreme Court acknowledged mediation and negotiation as voluntary schemes for tax disputes, barring cases involving criminal charges. This laid the groundwork for viewing Mediation as a legitimate pathway for civil and commercial conflicts.

The Lahore High Court expanded these principles in corporate disputes under the *Companies Act, 2017*. In *Faisal Zafar Vs. Siraj-ud-Din*[80], the Court held that disputes alleging mismanagement under Sections 286 and 287 could be resolved through mediation, provided parties consent.

[75] ibid.

[76] 2024 SCMR 947 (*Province of Punjab through Secretary C&W, Lahore, etc. Vs. M/s Haroon Company, Government Contractor, etc.*)

[77] Ibid. (*Justice Sandra Day O'Connor, Speech at the Minnesota Conference for Women in the Law, April 1985; referred.*)

[78] 2023 SCMR 1856

[79] 2007 SCMR 1095

[80] 2024 CLD 1

Similarly, in *Netherlands Financiering case*[81], the Court emphasized the role of *Early Neutral Evaluation (ENE)* and mediation under Sections 276 and 277 of the Act, stressing that settlement efforts reduce litigation costs and preserve business relationships. The Court reiterated this stance in *Strategic Plans Division Vs. Punjab Revenue Authority*[82], advocating mediation as a "*divine culture of peace*" and a modern resolution tool.

Further reinforcing this trend, the *Lahore High Court* in *Sohail Nisar Vs. Nadeem Nisar*[83] declared mediation a mandatory step in certain cases under the Companies Act, particularly family disputes, to safeguard personal and commercial ties. The *Sindh High Court* echoed this sentiment in *Shehzad Arshad Vs. Pervez Arshad*[84], linking the pro-mediation stance to systemic delays in civil courts. It endorsed court-referred mediation through specialized centers, emphasizing party autonomy and procedural flexibility. Earlier, in *Messrs. Focus Entertainment*[85], a Division Bench validated mediated settlements under Section 89-A of CPC, reflecting judicial support for consensual resolutions.

The *Sindh High Court*, in *Civil Aviation Authority Vs. Federation of Pakistan*[86], redefined ADR as *"Appropriate Dispute Resolution"*, urging lawyers and judges to prioritize tailored solutions such as mediation over adversarial litigation. This aligns with *Asif S. Sajan Vs. Rehan Associates*[87], where the Court rejected rigid formalities in mediation, stressing its goal of fostering dialogue. Similarly, in *U.I.G. (Pvt.) Limited Vs. Muhammad Imran Qureshi*[88], courts were encouraged to adopt flexible ADR methods for expeditious outcomes. The *Islamabad High Court* further validated this approach in *Miss Memoona Zainab Kazmi case*[89] and *The Imperial Electric Company case*[90], reinforcing mediation's role across jurisdictions.

Moreover very recently, In a rental premises eviction dispute case[91] *Justice Syed Mansoor Ali Shah* of the *Supreme Court of Pakistan* addressed the evolving role of mediation in the AI-driven legal landscape, distinguishing it from earlier rulings by explicitly framing ADR as a counterbalance to technological disruption. While previous decisions focused on institutionalizing mediation as a procedural right, this judgment delves into the philosophical divide between AI's technical capabilities and the irreplaceable human elements of mediation, such as empathy, ethical nuance, and the ability to navigate emotional undercurrents. Justice Shah's opinion stresses that as AI automates fact-based legal tasks, courts must actively safeguard the *'human infrastructure'* of dispute resolution by incentivizing mediation training and privileging ADR mechanisms in case management. The ruling further directs judicial policymakers to integrate AI tools in ways that complement, rather than displace, the relational dimensions of justice, ensuring that efficiency gains do not erode public trust in the system's humanity[92]. By anchoring mediation's primacy in

[81] 2024 CLD 685
[82] PLD 2024 Lahore 545
[83] 2024 LHC 1435; 2025 MLD 105
[84] PLD 2024 Sindh 408; 2024 CLD 1121
[85] 2021 CLD 885
[86] 2024 CLD 1518
[87] PLD 2012 Sindh 388
[88] 2011 CLC 758
[89] 2023 CLC 207
[90] 2019 CLD 609
[91] C.P. No.1010-L/2022 (*Ishfaq Ahmed v. Mushtaq Ahmed, etc*) Uploaded on 10 April 2025 on SC website and can be accessed via <https://www.supremecourt.gov.pk/downloads_judgements/c.p._1010_l_2022.pdf>
[92] Ibid.

the limitations of AI, this judgment marks a strategic pivot, positioning Pakistan's judiciary at the forefront of reconciling technological progress with the timeless value of human judgment in conflict resolution. Collectively, these judgments reflect a transformative shift in Pakistan's legal landscape, positioning Mediation as a cornerstone of dispute resolution. Courts now actively mandate or encourage mediation, conciliation, and negotiated settlements, driven by efficiency, cost-effectiveness, and the preservation of relationships.

Mediation Institutions & Mechanisms

Pakistan has developed formal institutions to advance ADR. The National Centre for Dispute Resolution (NCDR), based in Sindh, specializes in court-referred mediation and boasts a 73% success rate in resolving disputes efficiently[93]. Another key player is the Punjab Mediation Centers, operational across all districts since 2017, which have resolved over 11,000 cases through collaborative negotiation. Complementing these efforts, the Pakistan Mediators Association (PMA) actively promotes mediation by offering training programs and advocating for policy reforms to integrate ADR into mainstream legal practice[94]. Alongside formal institutions, community-based systems play a vital role. The Musalihat Anjuman, established under the Punjab Local Government Act 2013, operates as a network of local councils to resolve neighborhood and family disputes. These councils rely on traditional dialogue and consensus-building methods, often collaborating with courts to divert minor cases from overburdened judicial channels. By blending grassroots engagement with legal frameworks, such systems ensure accessible and culturally relevant solutions while preserving social harmony.

Resolving Specific Sector Civil Commercial Disputes through Mediation

Civil and commercial disputes, defined as conflicts between businesses, organizations, or individuals arising from contractual breaches, partnership disagreements, financial obligations, intellectual property issues, or other legally recognized rights and obligations capable of resolution in civil courts, are increasingly resolved through mediation (also called as *assisted Negotiations*). Unlike adversarial litigation, mediation empowers disputants to retain control over outcomes, address sector-specific complexities, and prioritize commercial interests while avoiding the costs, delays, and reputational risks of court trials[95]. By operating "*without prejudice*," mediation ensures concessions or information shared cannot be used in future proceedings, fostering open communication and preserving relationships. This approach not only resolves disputes efficiently but also uncovers collaborative solutions tailored to the unique needs of industries such as corporate governance, construction, taxation, finance, or technology, aligning legal resolutions with strategic, operational, and relational goals.

Mediating Corporate Disputes

Corporate and business disputes, arising from competing interests, governance failures, breaches of obligations, or cultural differences in fast-paced transactions, often manifest as boardroom disagreements over strategy, shareholder-management clashes on resource allocation, or tensions

[93] Awais H and Munir MA, 'Alternative Dispute Resolution (ADR) in Trial Courts of Pakistan: A Practical Approach towards a New Era of Timely Justice as a Means of "Justice for All"' (Report of the 8th Judicial Conference, Law and Justice Commission of Pakistan, 5 May 2018)<https://ssrn.com/abstract=3185629> accessed 12 April 2025

[94] Ibid.

[95] 'Civil and Commercial Mediation' (*Institute of Directors*, 24 March 2024) <https://www.iod.com/resources/business-advice/civil-and-commercial-mediation/> accessed 9 April 2025

among stakeholders like employees, customers, and regulators[96]. Common disputes include executive compensation disputes, shareholder activism, Mergers and Acquisitions conflicts, ethical lapses (e.g., fraud, environmental violations), and legal challenges such as antitrust lawsuits, intellectual property infringement, or compliance failures, compounded by contractual breaches in purchase agreements, construction delays, or franchise disputes[97]. These conflicts carry significant risk of financial losses, reputational harm, operational disruptions, and protracted litigation; Hence, necessitates efficient, relationship-preserving solutions like mediation. Unlike costly, time-consuming court battles, mediation offers a private, collaborative process in which parties first agree on procedural rules and transparently share dispute details, followed by a neutral mediator facilitating open dialogue to identify common ground and craft mutually acceptable solutions. The resulting formal agreement, enforceable through contract law or court ratification, ensures flexibility and fairness while saving time, costs, and business relationships. By aligning divergent interests, upholding fiduciary duties, and restoring organizational stability, mediation safeguards stakeholder value and long-term viability, making it a pragmatic alternative to adversarial legal proceedings[98].

Cross Border Corporate Mediation

Cross-border corporate dispute resolution is increasingly favoring mediation over traditional arbitration and litigation, driven by their rising costs, procedural delays, and rigid formalities. Companies like Siemens exemplify this shift, having adopted mediation in the 1990s to resolve international disputes, saving millions in legal fees and preserving long-term business relationships through collaborative, interest-based solutions[99]. Institutions such as the *International Chamber of Commerce (ICC)* and *the United Nations Commission on International Trade Law (UNCITRAL)* have bolstered this trend by establishing standardized frameworks. For instance, the ICC's 2014 updated mediation guidelines provide clarity and structure, prompting corporations like General Electric (GE) to integrate mediation clauses into international contracts, ensuring disputes are resolved efficiently without litigation or arbitration[100].

Mediation proves particularly effective in scenarios where preserving relationships or crafting tailored solutions is critical. In joint ventures, for example, maintaining partnerships is paramount, and mediation's flexibility allows parties to address underlying interests rather than narrowly legal claims. The 1990s Eurotunnel dispute between Britain and France saw successfully renegotiate construction timelines and payment terms without halting operations, demonstrating how creative problem-solving can keep multi-billion-dollar projects on track. Multi-party disputes, such as conflicts involving a tech company, supplier, and logistics partner, also thrive under mediation. By addressing diverse priorities; such as expedited deliveries or flexible payment schedules, mediation fosters mutually beneficial outcomes that rigid arbitration rulings might overlook.

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[96] Strier F, 'Conflicts of Interest in Corporate Governance' (2005) Journal of Corporate Citizenship 79

[97] 'Mediating Business Disputes' (*MDRS*) <https://www.mdrs.com/faqs/mdrs-articles/mediating-business-disputes/#:~:text=Mediation%20offers%20an%20opportunity%20to,those%20imposed%20by%20a%20court> accessed 24 April 2025

[98] Runesson EM and Guy M-L, *Mediating Corporate Governance Conflicts and Disputes* (Global Corporate Governance Forum 2007) <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/969191468314989975/mediating-corporate-governance-conflicts-and-disputes> accessed 24 April 2025

[99] Gans WG and Stryker Dispute Resolution Journal D, 'ADR - The Siemens' Experience' (1996) 51 Dispute Resolution Journal

[100] Strong SI, 'Beyond International Commercial Arbitration? The Promise of International Commercial Mediation' (2014) 45 Washington University Journal of Law & Policy

Beyond cost and time savings, mediation's emphasis on collaboration preserves business relationships, a strategic advantage in interconnected global markets. Some firms institutionalize this approach through Dispute Systems Design (DSD), implementing "mediation-first" policies that reduce legal costs by up to 40%[101]. Legal frameworks like the UNCITRAL Model Law on Mediation further enhance predictability by harmonizing procedural rules across jurisdictions. Singapore and Canada, for example, have adopted the Model Law, offering businesses clarity in cross-border enforcement. The 2019 Singapore Convention on Mediation bridges critical enforcement gaps, enabling mediated settlements to be enforced across 56+ signatory countries; a stark contrast to regional frameworks like the EU Mediation Directive 2008, which faced limitations in a Spain-Poland commercial case where enforcement hurdles persisted due to fragmented national laws[102]. The growing success of mediation is evident in cases like GE's in-house program, which resolved 70% of disputes faster than traditional methods. However, broader adoption requires stronger international alignment. Wider ratification of treaties like the Singapore Convention, coupled with business education on mediation's strategic benefits, will be pivotal. While progress is underway—evidenced by standardized rules and enforcement mechanisms—achieving universal recognition of mediated settlements remains essential. As cross-border commerce expands, mediation's ability to transform "lose-lose" scenarios into collaborative wins positions it as the future of dispute resolution, provided global enforceability frameworks continue to evolve.

Mediation in Corporate Commercial Disputes in Pakistani laws

The High Court, where a company's registered office is situated, holds exclusive jurisdiction under Section 5 of the Companies Act, 2017 over disputes explicitly outlined in the Act, such as challenges to major corporate actions like unauthorized sales of substantial assets without shareholder approval under *Section 183(3)*. This statutory framework is further strengthened by *Sections 276 and 277* of the same Act, which establish a comprehensive mechanism for mediation and conciliation in corporate disputes. The SECP operationalizes these provisions through the Companies (Mediation and Conciliation) Regulations, 2018, creating a structured ADR system that complements the High Court's specialized jurisdiction. Civil courts are expressly barred from entertaining such matters, ensuring uniformity and specialized adjudication of company law issues while providing parties with the option of mediation through the SECP's framework.

This demarcation prevents conflicting rulings and prioritizes specialized resolution of complex corporate disputes, whether through judicial or alternative means[103]. The SECP's mediation mechanism significantly reduces the burden on the High Court's company bench by offering a voluntary dispute resolution pathway. The Commission maintains a publicly accessible Panel of Mediators and Conciliators, comprising qualified professionals like retired judges, legal experts, and individuals with substantial corporate experience, as mandated by the 2018 Regulations. Notably, this approach aligns with Section 17 of the *Punjab Commercial Courts Ordinance, 2021*, which similarly mandates ADR for commercial disputes, creating consistency across Pakistan's commercial dispute resolution landscape.

[101] Rogers NH and others, *Designing Systems and Processes for Managing Disputes* (Wolters Kluwer Law & Business 2013)

[102] Strong (n 100).

[103] Arshad S, 'REMEDIES AVAILABLE TO SHAREHOLDERS AND SCOPE OF JURISDICTION OF HIGH COURTS UNDER THE COMPANIES ACT, 2017 ' (2024)

In the context of company law disputes, This process is especially valuable for disputes rooted in private rights, shareholder disagreements, or internal governance conflicts, where parties have room to negotiate compromises. For instance, when shareholders challenge a resolution varying their rights under *Section 59*, the SECP mediation framework allows for constructive dialogue where the company and aggrieved shareholders can negotiate alternative arrangements that address concerns while preserving business relationships. The SECP's mediation mechanism, operating under the 2018 Regulations, provides a structured platform for resolving various corporate disputes. Mediators facilitate collaborative dialogue through joint or separate sessions, aiming for mutually acceptable settlements within the prescribed timeline. Successful resolutions are formalized in binding agreements submitted to the SECP, while unresolved cases revert to formal proceedings. This process is particularly effective for disputes concerning receivers or managers under *Section 116*, where mediators can help parties develop balanced asset management strategies. Similarly, for errors in the register of members under *Section 126*, the mediation framework enables amicable resolution through reinstatement or compensation agreements rather than adversarial litigation.

The Companies Act's mediation provisions extend to more complex matters as well. Allegations of fiduciary breaches under *Section 212* may be settled through SECP-facilitated mediation by agreeing on corrective actions or governance improvements. In cases of document seizure under *Section 255(9)*, mediation can facilitate the return of materials through negotiated compliance undertakings. Even for serious matters like winding-up petitions based on inspector reports under *Section 268* or general winding-up proceedings under *Sections 301-306*, the mediation framework offers opportunities to explore business rescue plans or debt restructuring that may prevent liquidation.

The flexibility of this statutory mediation mechanism allows for creative, business-focused solutions across all corporate dispute scenarios. The SECP's framework prioritizes cost-effectiveness, confidentiality, and the preservation of business relationships - values that are particularly important in corporate disputes. Courts frequently encourage mediation before entertaining petitions, recognizing its potential to deliver faster, more cost-effective resolutions while maintaining confidentiality. The integration of these mediation provisions in both the Companies Act and the SECP Regulations provides structured pathways to resolve disputes before they escalate to formal legal proceedings. This comprehensive approach aligns with modern dispute resolution trends that emphasize collaboration over confrontation in corporate matters, as well as broader statutory frameworks like Section 17 of the Punjab Commercial Courts Ordinance. By institutionalizing mediation through Sections 276 and 277 of the Companies Act and the detailed 2018 Regulations, Pakistan's legal system offers businesses a pragmatic, efficient alternative to protracted court battles while maintaining the option of judicial recourse when necessary. The system's emphasis on qualified mediators, strict timelines, and enforceable settlements creates a balanced dispute resolution ecosystem that serves both corporate interests and the administration of justice.

Mediation in Intellectual Property Disputes of the Company

The 21st century has seen fast technological growth, digital changes, and global competition. These trends have increased the importance of intangible assets like intellectual property (IP). As businesses rely more on IP for profit, disputes over ownership, contracts, and unauthorized use

have become common[104]. Solving these conflicts quickly is crucial, but traditional court systems are often slow and limited by national borders, making them less effective for global IP issues. Intellectual property refers to legal rights over creations like books, inventions, trademarks, and designs. According to the WIPO Convention (1967), IP also covers performances, broadcasts, and protection against unfair competition. IP rights are unique because they are not physical, apply only within specific countries, expire after a set time, and belong exclusively to the owner[105]. Their value is hard to measure until they are sold, licensed, or used commercially. IP disputes typically fall into three categories. Validity and scope disputes involve challenges to whether an IP right (like a patent or trademark) legally exists, is valid, or should be terminated. Contractual disputes, the most frequent type, arise from breaches of licensing agreements, technology transfers, or joint development deals. Infringement disputes occur when someone uses IP without permission, leading to claims for remedies like injunctions or damages. Solving these conflicts quickly is crucial, but traditional court systems are often slow and limited by national borders, making them less effective for global IP issues.

There is an ongoing debate about the best way to resolve intellectual property (IP) disputes. Some experts believe courts should handle these cases because IP rights, such as patents, are created and enforced by governments. Disputes about whether an IP right is valid (e.g., challenging a patent) involve public interests, such as ensuring fair rules for everyone. Others argue that methods like mediation and Arbitration, collectively called ADR, are better for most IP issues. Mediation is often quicker and adaptable, letting parties resolve cross-border disputes in a single process instead of dealing with multiple court systems. It also allows parties to avoid public court proceedings and select decision-makers with expertise in technical or legal IP matters. Mediation process is confidential, which can prevent sensitive business information or reputational harm from becoming public. Scholars note that disputes over IP ownership or validity may still require litigation, as courts can create legal precedents that guide future cases. However, conflicts involving shared rights (e.g., disputes between collaborators) may benefit from mediation, which focuses on preserving relationships[106]. Kevin M. Lemley, an American IP attorney, developed a framework for using ADR in IP disputes. He identifies nine common types of IP conflicts and suggests specific dispute resolution methods for each. For example, cases requiring clear legal rulings might use litigation, while disputes where parties want to continue working together could use mediation[107].

Legal Regime for IPR in Pakistan

Pakistan's intellectual property laws, including *the Patents Ordinance 2000*, *Trademarks Ordinance 2001*, *Registered Designs Ordinance 2000* and *Copyright Ordinance 1962*, lack formal provisions for mediation. The Patents Ordinance requires inventions to be new, non-obvious, and industrially applicable, granting 20-year protection. Compulsory licensing applies if the patent remains unused commercially within four years of filing or three years of grant (imports excluded).

[104] Singh B, 'Unleashing Alternative Dispute Resolution (ADR) in Resolving Complex Legal- Technical Issues Arising in Cyberspace Lensing e-Commerce and Intellectual Property: Proliferation of E-Commerce Digital Economy' (2023) 5 Revista Brasileira de Alternative Dispute Resolution

[105] Article 2 (viii), WIPO Convention, 1967, can be accessed via https://www.wipo.int/edocs/pubdocs/en/copyright/120/wipo_pub_120_1967_08

[106] Corbett S, 'Mediation of Intellectual Property Disputes: A Critical Analysis' (2011) 17 New Zealand Business Law Quarterly 51 Available at SSRN: https://ssrn.com/abstract=1802207

[107] Lemley KM, 'I'll Make Him an Offer He Can't Refuse: A Proposed Model for Alternative Dispute Resolution in Intellectual Property Disputes' (2004) 37 Akron Law Review 287 Available at: http://ideaexchange.uakron.edu/akronlawreview/vol37/iss2/7

Exclusions cover medical procedures and mathematical methods[108]. Similarly, copyrights protect literary, artistic, and software works for the author's lifetime plus 50 years (50 years for photographs). Registration involves scrutiny by the Intellectual Property Organization (IPO), with remedies like injunctions or fines for infringement. Trademarks, governed by the Trademarks Ordinance 2001, follow the Nice Classification system (45 categories), protecting well-known brands. The Registered Designs Ordinance 2000 safeguards original designs for 10 years (renewable). Violations across these laws trigger civil or criminal penalties, but none explicitly include mediation. Similarly, *.pk domain disputes* managed by PKNIC (Pakistan Network Information Center) rely on a modified version of ICANN's UDRP (Uniform Domain-Name Dispute-Resolution Policy)[109], which prioritizes arbitration or court proceedings but also lacks statutory mediation mechanisms. Despite the absence of mediation in statutory frameworks, all IP and domain disputes in Pakistan are mediatable through voluntary agreements between parties. For example, trademark conflicts, patent disagreements, or cybersquatting cases (e.g., unauthorized use of a brand's .pk domain) can be resolved via private mediation, even though the laws do not mandate or outline it. PKNIC's process, while tailored to local requirements like Urdu documentation or Pakistani trademark registration, similarly leaves room for out-of-court mediation if both sides agree. This flexibility allows parties to bypass lengthy litigation or arbitration, emphasizing Pakistan's growing recognition of ADR practices, despite gaps in formal legal provisions.

Mediation under WIPO Regime

Pakistan's intellectual property regime is shaped by international treaties managed by the World Intellectual Property Organization (WIPO), a United Nations agency established in 1967. WIPO oversees agreements like the Paris Convention, focusing on industrial property such as patents and trademarks, which Pakistan ratified in 2004, and the Berne Convention, covering copyrights, ratified by Pakistan in 1948. These treaties form the foundation of global IP standards. WIPO assists Pakistan in aligning its IP laws with the TRIPS Agreement, particularly in sectors like pharmaceuticals and agriculture, while also supporting the creation of databases to protect genetic resources and traditional knowledge. Additionally, Pakistan relies on WIPO's systems, such as the Patent Cooperation Treaty (PCT), to streamline international IP registrations. The World Trade Organization (WTO) further enforces TRIPS compliance, ensuring Pakistan meets international obligations. WIPO's origins trace back to the late 19th century, beginning with the Paris Convention (1883) and Berne Convention (1886), which established early frameworks for IP protection. Administrative bodies for these treaties merged in 1893 to form BIRPI (United International Bureaux for the Protection of Intellectual Property), later evolving into WIPO in 1967[110]. Today, WIPO has 193 member states and manages 24 international treaties, reflecting its role in fostering global cooperation on IP issues[111]. Its primary goals include promoting IP awareness, developing unified policies, and addressing emerging challenges in intellectual property. By bridging gaps between nations, WIPO ensures a cohesive approach to protecting innovations, creative works, and cultural heritage.

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[108] Sharif K, 'Intellectual Property Law in Pakistan' (*Allatiflaw's Weblog*, 9 June 2008) <https://allatiflaw.wordpress.com/2008/06/09/intellectual-property-law-in-pakistan-2/> accessed 28 April 2025

[109] Gujjar, M. W., Hussain, S. A. Anees, A., & Gondal, T. M., (2024). Intellectual Property Laws in Pakistan. *Bulletin of Business and Economics (BBE), 13*(3), 282-289. https://doi.org/10.61506/01.00489

[110] Munir B, 'Intellectual Property Rights and Economic Development: A Case Study of Pakistan' Vol. VII. No. I, Jan-Jun 2021, Journal of Historical Studies 157, Available at SSRN: https://ssrn.com/abstract=4916567 or http://dx.doi.org/10.2139/ssrn.4916567

[111] 'Member States' (*WIPO*) <https://www.wipo.int/members/en/> accessed 29 April 2025

To resolve disputes efficiently, WIPO promotes ADR methods like mediation and arbitration through its Arbitration and Mediation Center, established in 1994. As the only international body specializing in IP disputes, the Center offers services such as mediation and arbitration, which produces legally binding decisions. Expedited arbitration and expert determination are also available for faster resolutions or technical disputes. The Center operates neutrally, with offices in Geneva and Singapore, and follows rules tailored to IP cases, ensuring confidentiality and effective evidence handling. Parties typically initiate the process by mutual agreement, often through pre-existing contractual clauses, and WIPO assists in selecting mediators, managing timelines, and organizing hearings[112].

The WIPO Arbitration and Mediation Center (AMC) serves as a global leader in resolving intellectual property (IP), innovation, and technology disputes, having managed over 3,700 cases (2015–2024) through mediation, arbitration, expert determination, and co-administration partnerships with national IP offices, courts, and institutions[113]. These disputes span a wide range of sectors, including AI, digital copyright, life sciences, SEPs/FRAND licensing, video games, esports, film production, franchising, and joint ventures, arising from contractual clauses, IP infringement claims, or post-dispute submissions. Parties involved range from multinational corporations, SMEs, startups, universities, and R&D centers to individual artists and inventors across 185 countries, reflecting its global reach. Remedies sought vary from non-monetary actions (e.g., infringement declarations, confidentiality safeguards, data production) to high-stakes financial claims (up to $1 billion), with outcomes often tailored to include new contracts or licensing terms. The AMC emphasizes settlement, achieving 70% success in mediation, underscoring its effectiveness in fostering negotiated resolutions. Additionally, it administers over 73,000 domain name disputes under the UDRP and related policies, covering 130,000+ domain names across generic TLDs (e.g., .com, .org) and 85+ country-code TLDs, while addressing challenges like WHOIS data privacy changes and providing critical resources such as the WIPO Overview for panelists[114]. Specializing in IP/tech disputes, the AMC offers niche expertise, procedural flexibility, and global integration with legal systems, distinguishing it from broader institutions like the ICC. Its adaptability to emerging issues—from AI conflicts to digital governance—solidifies its role as a cornerstone in both traditional IP and evolving digital ecosystems.

Mediation in Taxation Disputes

Taxes are compulsory payments required by the government from individuals and businesses to fund public services and development projects. These payments must be approved by law-making bodies, such as a parliament, to ensure citizens agree to them through their representatives. Taxes are divided into national taxes, like income tax and sales tax, and local taxes, such as property tax or municipal fees. Their main goal is to provide money for government operations and public needs. Tax disputes happen when taxpayers and tax authorities disagree over issues like tax amounts, legal interpretations, or audit results. Common reasons include differences between a taxpayer's self-reported taxes and the government's calculations, or arguments over how income or international transactions are taxed[115]. Globalization increases these conflicts because even local

[112] Delev J, 'The Role of the WIPO Arbitration and Mediation Center in Intellectual Property Disputes' (2024) 1 International Scientific Journal Sui Generis 62. https://doi.org/10.55843/SG2211062d

[113] 'Wipo Caseload Summary' (*WIPO*) <http://wipo.int/amc/en/center/caseload.html> accessed 29 April 2025

[114] Ibid.

[115] Usmani, M. B., Qaiser, K., Qaiser, Z., Bashir, M. I., & Chughtai, Z. A., 'ADR for Resolving Tax Related Disputes'. (2024) 2(4) Law Research Journal, 81.

businesses often have international connections, creating more chances for misunderstandings. Cultural differences, such as language barriers or contrasting legal systems, make resolving these disputes harder. Mediation offers a practical way to solve tax conflicts without going to court. It involves a neutral mediator who helps both sides discuss their disagreements and find solutions together. This method is useful for cross-border or culturally complex disputes because it focuses on clear communication and cooperation instead of formal legal battles. Mediation saves time and money, helps maintain business relationships, and allows parties to create agreements they both accept. It is becoming a popular choice for resolving tax issues in today's global business environment.

Tax Disputes Mediation Under Pakistani Law: Judicial Need and Efforts

The Pakistani judicial system has recognized the pressing need for an efficient mechanism to resolve tax disputes, given the overwhelming backlog of cases. As of November 7, 2024, a Supreme Court-formed committee revealed that over 108,366 revenue cases involving Rs4,457 billion were pending in high courts, with an additional 6,000 cases in the Supreme Court and 2,000 stalled due to stay orders[116]. To address this, the committee—comprising the registrar and legal-tax experts—proposed establishing a binding ADR mechanism within the Federal Board of Revenue (FBR) and provincial departments. The recommendations, presented during a meeting chaired by Chief Justice Yahya Afridi, included forming ADR panels for mediation, barring FBR appeals against ADR outcomes, and creating Supreme Court-monitored ADR units[117]. Additionally, the committee suggested special revenue benches for swift case resolution, consolidating similar cases to avoid conflicting judgments, and imposing disciplinary measures against frivolous appeals. These reforms aim to reduce litigation burdens, lower legal costs, and recover stalled revenues through improved case management and procedural efficiency.

The legal foundation for tax mediation in Pakistan was introduced through the Finance Act 2004 and expanded in subsequent amendments. Key provisions are embedded in the Customs Act 1969 (Section 195C), Income Tax Ordinance 2001 (Section 134A), Sales Tax Act 1990 (Section 47A), and Federal Excise Act 2005 (Section 38). The ADR Committee (ADRC) comprises members nominated by the FBR, including retired judges, chartered accountants, and advocates. The process begins when an aggrieved taxpayer submits an application to the FBR, after which the ADRC investigates, consults experts, and submits recommendations, leading to binding FBR orders[118]. However, the system faces limitations, such as a lack of standardized procedural guidelines, insufficient expertise in mediation techniques, and delays in implementation—evident in the dissolution of ADRCs if no decision is made within 75 days[119]. Traditionally, tax disputes in Pakistan follow a four-tier appellate system[120]: first to the Collector/Commissioner, then to the Appellate Tribunal, and finally through a reference to the High Court and then Supreme Court. This process is often lengthy, costly, and procedurally complex[121]. In contrast, ADR offers a faster

[116] Abbasi J, 'ADR System Proposed to Streamline Tax Litigation' (*The Express Tribune*, 3 March 2025) <https://tribune.com.pk/story/2531935/adr-system-proposed-to-streamline-tax-litigation> accessed 30 April 2025

[117] Ibid.

[118] Shafqat, U. U. R., Deeba, F., & Akhter, S, "Access to Justice through Mediation in Tax Disputes: A Case Study of Pakistan." (2022) 23(2) Pakistan Vision

[119] Saleem HAR and others, 'Access to Justice through Mediation in Tax Disputes: A Case Study of Pakistan' (2025) 3 Indus Journal of Social Sciences 1066 https://doi.org/10.59075/ijss.v3i1.939

[120] Hassan B, 'Tax Litigation and the System of Appeal in Pakistan' (2019) 23 Asia-Pacific Journal of Taxation 50

[121] Shafqat (n 118).

resolution outside courts, as emphasized in case law such as *Associated Industries Ltd v. Federation of Pakistan*[122], which mandated exhausting ADR before litigation. Similarly, *Chicago Metal Works v. Revenue Division* ruled that delays in ADRC recommendations constitute maladministration[123]. The 2018 Finance Act further strengthened ADR by making it mandatory for taxpayers to first approach ADRC before litigation, ensuring binding decisions, pausing tax recovery during proceedings, and requiring retired judges to head ADRCs[124].

To enhance the ADR framework, amendments to the Income Tax Ordinance 2001 have been proposed, including authorizing recognized ADR centers (such as the Chartered Institute of Arbitrators) to nominate retired judges[125]. These centers would ensure compliance with professional standards and accreditation by the Ministry of Law, streamlining the nomination process. Another key proposal is amending Section 134A to mandate that ADR committees be chaired by retired High Court judges affiliated with accredited centers, eliminating bureaucratic hurdles. Additional reforms include setting clear timelines for committee formation (e.g., 30 days from dispute filing) and ensuring transparency in mediator selection[126]. The benefits of these amendments are manifold. They would expand access to qualified mediators, reduce nomination delays by bypassing Ministry of Law bottlenecks, and standardize accreditation criteria for fairness. By leveraging existing ADR infrastructure, disputes could be resolved within months instead of years, reducing litigation costs and reputational risks for taxpayers. Ultimately, these reforms would strengthen Pakistan's tax administration system, boosting taxpayer trust, compliance, and revenue collection.

Mediation as Global Best Practices in Tax Disputes

Tax mediation is becoming a popular alternative to court litigation because it saves time, reduces costs, and improves trust between taxpayers and tax authorities. Different countries use different mediation models, showing how flexible and effective it can be. For example, the United States uses *Post-Appeal Mediation (PAM)* for complex tax cases before going to court and *Fast-Track Mediation (FTM)*, which resolves disputes in just 40 days[127]. Similarly, the United Kingdom's tax authority, HMRC, had a successful mediation program (2010–2013) that resolved 58% of cases, reducing wait times from 8–23 months to just 61 days. Some countries make mediation mandatory for certain cases. Italy requires a 90-day mediation process for disputes under €20,000, which helps build taxpayer trust, but if the agreed tax is not paid within 20 days, the deal is canceled[128]. The Netherlands has an 80% success rate in tax mediation and pauses legal proceedings during negotiations. The Tax Mediation Association (VFM) ensures mediators follow strict rules to keep discussions fair and private[129]. Canada's Ontario has mandatory mediation (Rule 24.1), which cuts down court time and costs, with 73% of participants finding it helpful[130]. Australia uses facilitative mediation, where neutral mediators help both sides negotiate, and the Administrative Appeals

[122] 2014 PTD 552

[123] 2012 PTD 168

[124] Shafqat (n 118).

[125] Areej S and Iqbal J, 'Enhancing Tax Dispute Resolution: A Proposal for Amendments to the Income Tax Ordinance 2001 for Strengthening Alternative Dispute Resolution Mechanisms' (2023) II Indus Journal of Law and Social Sciences 10

[126] Ibid.

[127] Shafqat (n 118).

[128] Ibid.

[129] Ibid.

[130] Ibid.

Tribunal (AAT) sends cases to mediation before court hearings to reduce delays[131]. However, some countries still face challenges. Ukraine tried mediation in a 2015 tax compromise program, recovering UAH 7 billion and closing 449 criminal cases, but legal barriers and a preference for court cases slow progress[132]. Russia introduced pre-trial mediation in 2013, but adoption remains low[133]. Indonesia's tax courts are overloaded, with cases taking over three years, but mediation fits well with its *musyawarah* (consensus-based) culture [134]. Hence, for mediation to succeed, governments must pass supportive laws, train mediators, and encourage taxpayer participation.

Mediation in Digital Era

The digital era has brought rapid changes to how people and businesses interact. New technologies like blockchain, smart contracts, and artificial intelligence have created new types of disputes[135]. These digital disputes often involve complex issues that traditional courts struggle to handle efficiently. This is where mediation becomes particularly valuable as a way to resolve conflicts in the digital age. Mediation offers several key advantages for digital disputes. It provides a flexible process that can adapt to new technologies and unique situations. Unlike court cases which follow strict rules, mediation allows parties to create customized solutions. This is especially important for digital conflicts where existing laws may not provide clear answers. The confidential nature of mediation also helps protect sensitive business information and technical details. The speed of mediation makes it well suited for digital disputes. Technology moves quickly and businesses cannot afford long legal battles. Mediation typically resolves issues much faster than court proceedings. This helps companies get back to normal operations with minimal disruption. The collaborative approach of mediation also helps preserve business relationships that might be damaged by adversarial court cases.

The digital era demands flexible dispute resolution, making hybrid methods like Med-Arb and Arb-Med increasingly valuable. In Med-Arb, parties mediate first, then arbitrate unresolved issues - though this risks suppressed disclosures and perceived bias when the same neutral serves both roles[136]. Arb-Med reverses the process: arbitration occurs first with a sealed award, followed by mediation. This often yields better outcomes as parties negotiate freely knowing a fallback exists. While Med-Arb may inhibit open dialogue and Arb-Med can disappoint if the award contradicts mediated terms, both methods effectively blend mediation's flexibility with arbitration's certainty. As digital disputes grow more complex, these hybrid approaches offer adaptable solutions where traditional processes fall short, balancing voluntary negotiation with binding resolution for technology-driven conflicts.

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[131] Hidayah K, Suhariningsih S and Istislam I, 'MEDIATION FOR INDONESIAN TAX DISPUTES: IS IT A POTENTIAL ALTERNATIVE STRATEGY FOR RESOLVING INDONESIAN TAX DISPUTES?' (2018) 8 Indonesia Law Review 154 Available at: https://scholarhub.ui.ac.id/ilrev/vol8/iss2/2

[132] Golovashevych, O., Bondarenko, I., Kotenko, A., Kucheryavenko, M. & Zaverukha, O.,'Mediation in the Resolution of Tax Disputes: Advantages, Application Experience, Prospects for Implementation in Ukraine.' (2024) *15*(1) *DANUBE* 73

[133] Herman, K., & Prizhennikova, A. N.,'Mediation in tax disputes: prospects for development' (2019) *Colloquium-journal* 94 https://cyberleninka.ru/article/n/mediation-in-tax-disputes-prospects-for-development> accessed 30 April, 2025

[134] Hidayah (n 131).

[135] Rusakova EP and Frolova EE, 'Digital Disputes in the New Legal Reality' (2022) 26 RUDN Journal of Law 695

[136] Bridge, C. SC "Med-Arb and Other Hybrid Processes - One Man's Meat is Another Man's Poison" (2014) 33(1) The Arbitrator & Mediator 133 <https://www5.austlii.edu.au/au/journals/ANZRIArbMedr/2014/9.pdf> Accessed 1 May, 2025.

Technology-Mediated Dispute Resolution for Digital Disputes

The digital age has brought new challenges in regulating digital rights and resolving disputes. Currently, there is no comprehensive framework for digital rights, leading to gaps in legal protection. As a result, "*Digital law*" has emerged as a new branch of civil law[137]. Digital rights have a dual nature—one as human rights, such as internet access, while other as property rights, like cryptocurrencies and tokens[138]. To address disputes arising in the digital space, *Technology-Mediated Dispute Resolution (TMDR)* has become essential. TMDR uses *Information and Communication Technologies (ICTs)* such as emails, online chat, video conferencing, and telephones to resolve conflicts. It is particularly useful for domain name disputes, consumer complaints, and commercial disagreements. Traditional dispute resolution methods were inefficient for online conflicts, especially after the internet became commercialized in the 1990s[139]. TMDR eliminates the need for physical meetings, allowing parties in different locations to settle disputes remotely.

Countries around the world are increasingly using technology to resolve disputes more efficiently. In the United States, courts allow video conferencing for civil trials and have created high-tech courtrooms like the *Courtroom 21 Project* for virtual proceedings[140]. Similarly, the United Kingdom's Money Claim Online system handles small claims digitally, making the process faster and more accessible[141]. Australia uses video conferencing to help resolve remote indigenous land disputes, bringing justice to distant communities[142]. Poland has modernized its legal system with digital court reporting and electronic case filing, reducing paperwork and delays. Brazil employs mobile courts powered by artificial intelligence to quickly settle accident disputes on the spot. India's E-Courts system enables witnesses to give testimonies via video conferencing, saving time and resources. Sri Lanka's *INFO SHARE platform* offers online conflict resolution[143], while Israel's New Generation Court System manages cases entirely online[144]. These examples demonstrate how technology is transforming dispute resolution worldwide, making legal processes more adaptable, efficient, and accessible across different cultures and legal systems. The global adoption of technology-mediated dispute resolution shows its effectiveness in both traditional courts and ADR methods, proving its value in our increasingly digital world.

Online Dispute Resolution (ODR) and Online Mediation

The rise in online transactions during COVID-19 has increased legal disputes, but traditional court processes are slow and costly. ODR offers a faster, digital alternative, allowing parties to resolve conflicts through negotiation, mediation, or arbitration online. Companies like eBay and Amazon use ODR to handle trade disputes efficiently, reducing reliance on courts. However, Pakistan lacks ODR laws, making legal reforms necessary for consumer claims, commercial disputes and

[137] Rusakova (n 135).
[138] Ibid.
[139] Orji, U. J., 'Technology mediated dispute resolution: challenges and opportunities for dispute resolution' (2012) 18(5) Computer and Telecommunications Law Review 124
[140] Ibid.
[141] Mason M and Sherr AH, 'Evaluation of the Small Claims Online Dispute Resolution Pilot' [2008] SSRN Electronic Journal Available at SSRN: https://ssrn.com/abstract=1407631
[142] Orji (n 139).
[143] Ibid.
[144] Rabinovich-Einy O., "Reflecting on ODR: The Israeli Example" (2009), available at <http://ceur-ws.org/Vol-430/Paper3.pdf> Accessed 1 May, 2025

likewise matters. ODR began in 1996 and has since evolved with support from organizations like WIPO and the American Arbitration Association[145]. Online mediation, a key part of ODR, uses video calls or messaging to help parties reach agreements without binding rulings[146]. Unlike traditional ADR, ODR uses technology for quicker, more flexible resolutions, especially in cross-border cases. ODR also possesses key principles including confidentiality, neutrality, and security, ensuring fair and safe dispute resolution.

Developed countries like the US and China lead in ODR implementation with advanced systems such as smart courts and blockchain-based smart contracts but they face challenges like a lack of standardized infrastructure and skilled human resources. Global ODR models show success stories such as eBay which was the first successful ODR platform resolving 50% of disputes and other companies like PayPal, Amazon and Alibaba followed with similar mechanisms. Countries like the Netherlands use platforms like Rechtwijzer for family disputes while Canada's Civil Resolution Tribunal handles small claims and strata disputes with a four-stage process that achieves a 70% resolution rate at the facilitation stage. The UK's Money Claim Online platform reduces default rates and increases mediation referrals for claims up to £10000 while the EU ODR Platform resolves 44% of cross-border consumer disputes through initial negotiation[147]. The US uses cloud-based ODR systems like *Matterhorn and Modria* for faster resolution of small claims and child support cases easing court workloads. International organizations like UNCITRAL and the EU promote ODR frameworks with structured processes while ASEAN encourages member states to adopt ODR for e-commerce conflicts. Courts worldwide are integrating ODR with 32 courts fully adopting it including examples like Utah in the USA and British Columbia in Canada[148].

Online mediation faces several obstacles and challenges that make it difficult to use effectively. One major issue is the lack of understanding and proper infrastructure among users. Many people are not familiar with how online mediation works which creates confusion. Technical problems like poor internet connection and low-quality devices also make the process harder. Another challenge is the difficulty in building trust and understanding body language when communication happens through a screen. Data privacy and legal issues further complicate online mediation. Personal information such as digital signatures can be stolen if security is weak.[149] Many institutions use unsafe methods like email or Google Drive to share documents which increases risks. Without clear legal rules mediation agreements may not be enforced properly. Cultural habits like delayed responses or avoiding mediator control also create problems in the process. Pakistan faces similar challenges in implementing online dispute resolution. The ADR Act 2017 does not include rules for online mediation and there are no specific laws for e-commerce disputes. Technology problems like frequent power cuts and expensive internet make ODR hard to adopt. Many people also distrust online transactions and avoid digital payments. These issues show that both infrastructure and cultural attitudes need to improve for ODR to work effectively.

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[149] Muslim(n 146).

Conclusion and Recommendations

Court battles are slow, expensive, and rigid, qualities that are ill-suited to the fast-paced demands of modern commerce. Pakistan urgently needs a more efficient alternative, and mediation provides precisely that. Faster, cheaper, and more flexible than traditional litigation, mediation has the potential to transform the country's dispute resolution landscape. This paper has examined Pakistan's legal framework for mediation, its applications across various sectors, and the expanding role of digital mediation. The findings underscore mediation's significant advantages in resolving commercial disputes effectively. Pakistan has already taken promising steps toward embracing mediation. The government's recent decision to sign the Singapore Convention on Mediation marks a critical milestone, integrating the country into the global mediation ecosystem and ensuring the enforceability of cross-border settlements. Domestically, legislative measures such as the Companies Act, 2017, and mediation clauses in tax and regulatory statutes reflect growing recognition of mediation's value in corporate, intellectual property, and fiscal disputes. Courts, too, are increasingly promoting mediation to alleviate case backlogs. The true strength of mediation lies in its adaptability. Unlike rigid court procedures, mediation thrives on flexibility, whether in resolving complex corporate conflicts, safeguarding intellectual property rights, or settling high-stakes tax disputes. The rise of Online Dispute Resolution (ODR) further enhances its potential, making mediation more accessible, efficient, and scalable in an increasingly digital economy.

Yet, challenges remain. Public awareness of meditation's benefits is limited, mediator accreditation standards need strengthening, and enforcement mechanisms for mediated settlements must be more robust. To fully realize mediation's potential, Pakistan must adopt concrete policies, including specialized training programs for mediators, incentives for businesses to include mediation clauses in contracts, and the establishment of dedicated mediation centers. Judicial and governmental support will be pivotal in driving this shift. Pakistan now stands at a crossroads. One path leads to an overburdened, sluggish judicial system, while the other leads toward a faster, fairer, and more sustainable future through mediation. By fortifying its legal framework, investing in technology-driven mediation platforms, and fostering a culture of collaborative dispute resolution, Pakistan can emerge as a regional leader in commercial mediation. The future of justice does not lie in protracted courtroom battles but in constructive, interest-based solutions. Mediation is not merely an alternative. It is the evolution of dispute resolution itself. For Pakistan's businesses, legal system, and economy, the time to fully embrace mediation is now.