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SHOULD MEDIATION BE MANDATORY BEFORE CIVIL LITIGATION TO IMPROVE JUDICIAL EFFICIENCY IN PAKISTAN? LESSONS FROM INTERNATIONAL PRACTICE

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I. ABSTRACT

Pakistan's courts carried 2,371,389 pending cases on 31 December 2024, 1,965,172 of them before the district judiciary, according to the Law and Justice Commission of Pakistan. This paper examines whether mediation should become a mandatory step before civil litigation and, if so, in what form. It adopts a doctrinal, analytical and comparative method, drawing on statutes, case law, official statistics, reform reports and scholarly literature. It analyses the Alternative Dispute Resolution Act 2017, which applies only to the Islamabad Capital Territory, alongside the provincial ADR statutes, Section 89-A and Order X, Rule 1A of the Code of Civil Procedure 1908, and the Mediation Practice Direction (Civil) Rules 2023. It then compares three models: Turkey's sequenced, statute-based pre-action mandate; Italy's mandate, struck down in 2012 and reintroduced in narrower form in 2013; and Singapore's model of judicial encouragement, a presumption of ADR and court-recordable settlements. The paper finds that Pakistan's framework, although framed in mandatory terms, operates as mandatory referral with a party-consent opt-out, and that no official data record disposals through mediation. The comparators show that sequencing matters: a mandate introduced sector by sector, with safeguards, withstands legal challenge and builds capacity, while an over-broad mandate invites invalidation and resistance. The paper also identifies two institutional gaps: the absence of a national mediator-accreditation registry and the lack of a fast, distinct enforcement route for mediated settlements. It recommends a phased, sector-by-sector transition from consent-based referral to a pre-action mediation requirement, beginning with commercial disputes and followed by labour and then general civil

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disputes, supported by accreditation, case tracking, constitutional safeguards and harmonisation with the reconciliation stages of the Family Courts Act 1964.

II. KEYWORDS

Mandatory Pre-Trial Mediation, Court-Referred Mediation, Case Backlog, Comparative Mediation Models, Institutional Capacity.

III. INTRODUCTION

In Pakistan, the pendency of cases is a prevalent challenge that undermines the efficiency of the judicial system. According to the Judicial Statistics of Pakistan 2024 published by the Law and Justice Commission of Pakistan (LJCP), 2,371,389 cases were pending across all courts on 31 December 2024, of which 406,217 were before the superior courts and 1,965,172 before the district judiciary.²

These figures cover civil and criminal matters together. The LJCP's most recent published jurisdiction-wise break-up places civil cases at 64 per cent of the district backlog, or 1,198,292 of 1,861,812 cases pending on 31 December 2023.³ The typical adversarial litigation system in Pakistan hinders the pace of civil case resolution, thereby adding to the case backlog. This situation is aggravated by the underutilization of mediation in Pakistan's civil justice system.⁴ Given this context, a mandatory pre-trial mediation would serve as a flexible and cost-efficient alternative.

This research explores mandatory pre-trial mediation, which is legally feasible and institutionally viable. Based on comparative analysis and international best practices, it seeks to propose reforms that can make mediation an effective and culturally relevant

² Law and Justice Commission of Pakistan, *Judicial Statistics of Pakistan 2024* (Islamabad: Law and Justice Commission of Pakistan, 2025), ii (Performance Overview), [https://ljcp.gov.pk/SiteImage/Misc/files/6880\(25\)Judicial%20Statistics%202024.pdf](https://ljcp.gov.pk/SiteImage/Misc/files/6880(25)Judicial%20Statistics%202024.pdf).

³ Law and Justice Commission of Pakistan, *2nd Bi-Annual Report of Judicial Statistics, July to December 2023* (Islamabad: Law and Justice Commission of Pakistan, 2024), 1 and 8 (section 6.1, jurisdiction-wise break-up of District Judiciary cases), <https://www.ljcp.gov.pk/SiteImage/Misc/files/bar.pdf>.

⁴ Hafsa Aadil, "The Underutilization of Mediation in Pakistan's Justice System: Structural Challenges, Comparative Analysis, and Practical Implementations" (paper, March 31, 2026), <https://ssrn.com/abstract=7140378>.

method of dispute resolution in Pakistan. Though mediation has attracted considerable attention in Pakistan in recent years, it remains underutilized in practice. The Alternative Dispute Resolution Act 2017 provides statutory backing, but Section 1 extends it to the Islamabad Capital Territory only.⁵ The provinces follow separate regimes: the Code of Civil Procedure (Sindh Amendment) Act 2018, the Punjab Alternate Dispute Resolution Act 2019, the Khyber Pakhtunkhwa Alternate Dispute Resolution Act 2020 and the Balochistan Alternate Dispute Resolution Act 2021.⁶ Section 89-A and Order X, Rule 1A of the Code of Civil Procedure 1908 (CPC) also allow courts to adopt mediation, but only with the consent of the parties.

Because civil procedure is not an enumerated federal subject after the Eighteenth Amendment, Parliament legislates for the Islamabad Capital Territory under Article 142(d) of the Constitution, while each Provincial Assembly may amend the CPC and its own ADR statute for its province. A mandatory pre-trial mediation reform would therefore require coordinated amendments by Parliament and the four Provincial Assemblies, and each regime still faces challenges in its consent requirements, referral exceptions and procedural timelines that impair its binding character in practice.

A. Research Objectives

This research pursues three objectives, each corresponding to one of the research questions below:

1. To assess the measurable effect of court-referred mediation under the ADR Act 2017, the provincial ADR statutes and the Mediation Practice Direction (Civil) Rules 2023 on case pendency, and to evaluate the institutional capacity of the judiciary to support a mandatory mechanism.

⁵ The Alternative Dispute Resolution Act, 2017 (Act No. XXII of 2017), s. 1.

⁶ Code of Civil Procedure (Sindh Amendment) Act, 2018; Punjab Alternate Dispute Resolution Act, 2019 (Act XVII of 2019), s. 1(2); Khyber Pakhtunkhwa Alternate Dispute Resolution Act, 2020; Balochistan Alternate Dispute Resolution Act, 2021, s. 1(2).

2. To identify the features of the Turkish, Italian and Singaporean models that Pakistan's civil litigation framework can adopt, and the statutory amendments their adoption would require.
3. To define the sectoral scope and sequencing of any mandate, distinguishing commercial, labour, family and general civil disputes according to their procedural requirements.

B. Research Questions

1. How much has the court-referred mediation under the prevailing legal framework, i.e., the ADR Act 2017 and provincial ADR acts, along with the Mediation Practice Direction (Civil) Rules, 2023, lessened pendency of cases, and what does the existing evidence show about the Institutional capacity of the judiciary to adopt a mandatory pre-trial mediation mechanism?
2. Which international model of mandatory pre-trial mediation is structurally adoptable in Pakistan's civil litigation framework, and what amendments are required for its proper functioning?
3. Should the mandatory pre-trial mediation apply uniformly to all kinds of civil matters in Pakistan, or should it be adapted differently for labor, wages, and commercial matters etc., in accordance with their procedural requirement?

C. Literature Review

The scholarly literature on alternative dispute resolution, specifically mediation, can be reviewed thematically, and it reveals more divergence than agreement. Khalid (2024)⁷ and Khan, Mohamed and Omoola (2024)⁸ both examine Pakistan's statutory framework, but they diagnose different problems. Khalid situates the ADR Act 2017 within

⁷ Maryam Khalid. 2024. "Exploring The Efficacy of Mediation in Pakistan's Conflict Resolution Landscape". Pakistan Research Journal of Social Sciences 3 (3).
<https://prjss.com/index.php/prjss/article/view/221>.

⁸ Ihtesham Ullah Khan, Nurah Sabahiah Mohamed and Sodiq Omoola, "Legal Status and Future of Mediation in Pakistan: A Critical Exploration of ADR Frameworks," *Bahria Journal of Law & Social Policy* 6, no. 1 (2024): 1-19.

international frameworks such as the Singapore Convention and advocates making mediation mandatory in commercial disputes.

However, the study does not explain why the 2017 Act, which already contains mandatory referral language, has not produced measurable results in Pakistan. Khan, Mohamed and Omoola supply part of that explanation. They trace Section 89-A of the CPC, the ADR Act 2017 and the provincial statutes, and conclude that the framework is fragmented, largely court-annexed and lacks rules for community mediation, mediator training and community mediation centres. The weakness they identify is therefore institutional, not the absence of a mandate. Read together, these studies reveal the first gap that this research addresses: what effect the existing framework has had on the civil case backlog.

A more recent judicial dimension complicates this picture, because Pakistani courts have begun to promote mediation without waiting for legislative reform. In *Mughals Pakistan (Pvt) Ltd v. Employees' Old-Age Benefits Institution*, the Supreme Court described mediation as “a right of the parties within the litigation process” and called for a pro-mediation bias in the courts.⁹

That decision binds all other courts, save the Federal Constitutional Court, under Article 189(2) of the Constitution. The Lahore High Court has followed the same course in *M/s 5H Insaat Ve Ticaret Anonim Sirketi v. Secretary Local Government*¹⁰ and *Faisal Zafar v. Siraj-ud-Din*.¹¹ These High Court decisions bind the courts subordinate to it under Article 201 and carry persuasive weight elsewhere. The judiciary is thus running ahead of the legislature, a disconnect that the existing literature has not analysed in depth.

⁹ *Messrs Mughals Pakistan (Pvt.) Limited v. Employees' Old-Age Benefits Institution*, Civil Appeals Nos. 256 and 257 of 2024 and C.M.As. Nos. 3039 and 3042 of 2024, PLD 2025 SC 1 (Supreme Court of Pakistan, order dated November 6, 2024).

¹⁰ *M/s 5H Insaat Ve Ticaret Anonim Sirketi v. Secretary Local Government*, 2025 LHC 3570 (Lahore High Court, Rawalpindi Bench).

¹¹ *Faisal Zafar v. Siraj-ud-Din*, Civil Original No. 6 of 2022, 2023 LHC 6015 (Lahore High Court, October 10, 2023).

The Constitution (Twenty-seventh Amendment) Act 2025, published on 13 November 2025, adds a further layer. It established the Federal Constitutional Court (FCC), vested in it the constitutional jurisdiction formerly exercised by the Supreme Court, and substituted Article 189: decisions of the FCC on questions of law now bind all other courts, including the Supreme Court, while decisions of the Supreme Court bind all other courts except the FCC.¹² *Mughals Pakistan*, decided by the Supreme Court before the amendment, therefore retains binding force within the civil appellate hierarchy, but it does not bind the FCC, and this research has found no reported FCC decision on mediation. Under this two-apex structure, case-by-case judicial endorsement offers a less stable foundation for compulsory mediation than a legislative mandate, which this paper therefore favours.

The Legislative Reform Package (2026) by the Research Society of International Law & Legal Aid Society analyzes Pakistan's ADR Act 2017 as a consent-bound law in practice, despite it having mandatory language. It proposes a phased mechanism and draws its inspiration from Turkey's sequenced model and Singapore's institution-building model.¹³ However, this report doesn't offer reforms for general civil cases but specifies itself to labour and commercial disputes within Islamabad. This is the unaddressed lacuna that this paper seeks to discuss by comparative analysis with international jurisdictions having considerably successful pre-trial mediation models.

D. Research Methodology

The research's overall methodology is analytical and comparative. To assess the efficiency of the Mandatory pre-trial mediation, a Critical and analytical research methodology is employed. It includes a rigorous analysis of the statutes, case laws, and

¹² The Constitution (Twenty-seventh Amendment) Act, 2025 (Act No. XXXII of 2025), s. 34, Gazette of Pakistan, Extraordinary, November 13, 2025; Constitution of the Islamic Republic of Pakistan 1973, arts. 189 and 201.

¹³ Research Society of International Law and Legal Aid Society, *Mediation Before Litigation: A Reform Package for Labour and Commercial Disputes in Islamabad* (Islamabad: Research Society of International Law and Legal Aid Society, 2026).

existing legal framework regarding mediation. It is supplemented with a comparative analysis. By analyzing the existing mandatory pre-trial mediation procedures of different jurisdictions, it seeks to ascertain best international practices and their impact and success in the Pakistani setting.

IV. RESEARCH & ANALYSIS

A. Institutional Capacity and the Consent-Bound Framework

Turning first to the question of institutional capacity, the findings suggest a framework still in its early stages of consolidation. Its effect on pendency cannot be measured precisely, because no official report records case disposals through mediation, and the LJCP's annual statistics do not report ADR outcomes.¹⁴ Section 3(1) of the 2017 Act directs the court to refer each civil matter listed in the Schedule to ADR at the first hearing at which the parties appear, unless (a) any party does not agree, (b) the court considers settlement through ADR not possible, or (c) the case involves an intricate question of law or fact.¹⁵ The regime is therefore best described as mandatory referral with a party-consent opt-out.

The tension between Section 3(1) and clause (a) lies here: the main provision frames referral as a duty of the court, yet clause (a) lets either party defeat it by withholding agreement, and Sections 3(3) and 6 require consent for later referrals and referrals to an ADR Centre. In practice, referral is not a precondition to litigation but a step the parties may decline. The Mediation Practice Direction (Civil) Rules 2023 has consolidated procedure¹⁶ without altering that consent-based core. This consent-based approach leaves institutional capacity under-resourced, given the volume of pending litigation.

¹⁴ Law and Justice Commission of Pakistan, *Judicial Statistics of Pakistan* 2024.

¹⁵ The Alternative Dispute Resolution Act, 2017 (Act No. XXII of 2017), ss. 1, 3, 6, 9 and 10, Gazette of Pakistan, Extraordinary, June 1, 2017.

¹⁶ Islamabad High Court, Mediation Practice Direction (Civil) Rules, 2023, issued under Article 202 of the Constitution of the Islamic Republic of Pakistan 1973 (Islamabad: Islamabad High Court, October 26, 2023).

Although the Supreme Court now treats mediation as a right of the parties within the litigation process, judicial endorsement has outstripped legislative efforts to develop the accreditation and case-tracking systems that a truly mandatory system would require.¹⁷ No official figure shows how far mediation has reduced a backlog of 2.27 million cases recorded at the end of June 2025, while the judiciary works with nearly 1,200 fewer judges than its sanctioned strength.¹⁸ This finding is therefore a data limitation, not a measured result.

B. Federal and Provincial Referral Regimes Compared

The 2017 Act is only one of several referral regimes, and they differ on each point that a mandate would need to settle. Under the 2017 Act, which covers the Islamabad Capital Territory, the court refers Schedule matters at the first hearing subject to the consent opt-out described above; the neutral must conclude mediation within 30 days, extendable by 15 days for sufficient cause; and the court passes a decree in the terms of the settlement.¹⁹

The Punjab Alternate Dispute Resolution Act 2019 directs the court to refer cases listed in its Schedule I within 30 days of the filing of the written statement, after seeking the parties' opinion; the court fixes a timetable of up to 60 days, which may not exceed 120 days in total; and the court passes a decree in the terms of the settlement, against which no appeal or revision lies.²⁰

The Balochistan Alternate Dispute Resolution Act 2021 follows the Punjab design but requires referral within 30 days of the defendant's appearance and allows a total ADR period of up to six months.²¹ In Sindh, the Code of Civil Procedure (Sindh Amendment) Act 2018 enables courts to use mediation and conciliation in civil and commercial matters,

¹⁷ *Mughals Pakistan*, PLD 2025 SC 1.

¹⁸ "Law: Mediation before Litigation." Dawn, May 17, 2026.

<https://www.dawn.com/news/2000725/law-mediation-before-litigation>.

¹⁹ The Alternative Dispute Resolution Act, 2017, ss. 3(1), 9(2) and 10(1).

²⁰ Punjab Alternate Dispute Resolution Act, 2019, ss. 3(1), 3(3), 3(4), 14(1) and 15(1).

²¹ Balochistan Alternate Dispute Resolution Act, 2021, ss. 3(1), 3(3), 3(4) and 14(1).

while the Khyber Pakhtunkhwa Act of 2020 requires the parties' consent and repealed Section 89-A in that province.²²

Outside these statutes, Section 89-A of the CPC permits the court to adopt mediation or conciliation "with the consent of the parties", and Order X, Rule 1A empowers it to adopt, with consent, any alternative method of dispute resolution.²³ A pre-action reform would therefore make three changes. It would remove the consent condition in Section 89-A and Order X, Rule 1A for designated categories of dispute; replace the party opt-out in Section 3(1)(a) of the 2017 Act and its provincial counterparts with a duty to attend an initial mediation session; and require that attempt before the institution of the suit, not after the first hearing.

C. Comparative Models: Turkey, Italy and Singapore

Against this backdrop, a look at comparative models becomes instructive in charting a way forward. Three comparators shed light on the options that Pakistan faces. Turkey has a pre-action model that is both centralized and statute based, and the rates of settlement have been around 58 per cent in labour disputes (mandatory since 2018) and 52 per cent in commercial disputes (mandatory since 2019), with over 1.9 million referrals made under the mediation system established by the Ministry of Justice.²⁴ Italy illustrates the risk of moving too fast.

The Corte costituzionale, in sentenza n. 272/2012 of 6 December 2012, struck down the original mandate because the Government had exceeded its delegated powers, and Decree-Law No. 69/2013, converted by Law No. 98/2013, reintroduced it in narrower form.²⁵ The reintroduced model applies to a defined list of matters, requires the assistance

²² Khan, Mohamed and Omoola, "Legal Status and Future of Mediation in Pakistan."

²³ Code of Civil Procedure, 1908, s. 89-A and Order X, Rule 1A.

²⁴ Yasan-Tepetaş, Candan. "Rise of Mediation and Arbitration in Türkiye." IALL, February 26, 2024. <https://iall.org/rise-of-mediation-and-arbitration-in-turkiye/>.

²⁵ C. H. van Rhee, "Mandatory Mediation before Litigation in Civil and Commercial Matters: A European Perspective," *Access to Justice in Eastern Europe* 4, no. 12 (2021): 7–24, at 13; Corte costituzionale, sentenza n. 272/2012 (December 6, 2012); Decree-Law No. 69 of June 21, 2013, art. 84, converted with amendments by Law No. 98 of August 9, 2013 (Italy).

of counsel, and allows the parties to opt out at the first meeting. In 2020, settlement was reached in 46.7 per cent of mediations in which the parties chose to continue beyond that first meeting, but in only 28.7 per cent of mediations overall.²⁶

The first-meeting opt-out offers Pakistan a template for a mandate that compels attendance but not settlement. Singapore, in contrast, never enacted a general mandate. Its State Courts apply a presumption of ADR to civil claims and may weigh an unreasonable refusal in costs,²⁷ while compulsory consultation applies only in the Small Claims Tribunals, where parties must attend a consultation session before an assistant registrar who attempts to mediate a settlement.

The Community Justice and Tribunals System (CJTS) is the online platform through which parties file and manage claims in that tribunals cluster.²⁸ Among the three, Turkey's is the most applicable to the current Section 89-A²⁹ and Order X, Rule 1A³⁰ of the CPC: what needs to be introduced is a pre-action condition that transforms referral into a precondition, and a nationwide mediator-accreditation registry. From Singapore, Pakistan can adopt the presumption of ADR, court-supervised consultation for small claims and digital case filing; from Italy, it should take the lessons of sequencing and the first-meeting opt-out.

D. Enforcement of Mediated Settlements

Enforcement determines whether mediation saves time at the recovery stage. Under Section 10(1) of the 2017 Act, the neutral records the settlement, the parties and the neutral sign it, and the court passes a decree in its terms; the Punjab and Balochistan statutes

²⁶ Van Rhee, "Mandatory Mediation before Litigation," 15.

²⁷ State Courts Practice Directions 2021 (Singapore), paras. 34(5) and 34(8); Rules of Court 2021 (Singapore), Order 21, Rule 2(2)(a).

²⁸ Johan Ding Kar En, "Singapore's Informal Justice Experience: Evaluating the Practice of the Small Claims Tribunals," *Singapore Law Review* 41 (2024): 109–140, at 110 and 117–119, https://law.nus.edu.sg/cals/wp-content/uploads/sites/4/2024/11/41-SLR-109-140_Johan-Ding-Kar-En.pdf.

²⁹ *Code of Civil Procedure, 1908*, §89-A.

³⁰ *Code of Civil Procedure, 1908*, Order X, Rule 1A.

contain equivalent provisions and bar appeals against such decrees.³¹ Pakistani law therefore already converts a court-referred settlement into a decree, but that decree then joins the ordinary execution queue under Order XXI of the CPC, and the law provides no comparable route for a settlement reached before any suit is filed.

Singapore's Mediation Act 2017, in force since 1 November 2017, allows parties to apply to record a mediated settlement agreement as an order of court where a designated service provider administered the mediation or a certified mediator conducted it, making the agreement directly enforceable as a court order.³² At the cross-border level, Pakistan signed the Singapore Convention on Mediation on 23 May 2025.³³

At Singapore Convention Week in August 2026, the Federal Minister for Law and Justice stated that implementing legislation would be tabled in Parliament soon; that legislation had not been enacted at the time of writing.³⁴ Domestic reform should proceed in step with it, so that pre-action settlements reached before an accredited mediator can be recorded and enforced as court orders without a separate suit, and domestic and international settlements follow a common procedure.

E. Constitutional and Procedural Safeguards

The principal objection to a pre-action mandate is that it burdens access to court. Article 10A of the Constitution guarantees a fair trial and due process in the determination of civil rights and obligations, and the Supreme Court has itself linked access to justice to

³¹ The Alternative Dispute Resolution Act, 2017, s. 10(1); Punjab Alternate Dispute Resolution Act, 2019, ss. 14(1) and 15(1); Balochistan Alternate Dispute Resolution Act, 2021, ss. 14(1) and 15(1).

³² Mediation Act 2017 (Singapore), s. 12; Ministry of Law, Singapore, "Mediation Act to Commence from 1 November 2017," press release, November 1, 2017, <https://www.mlaw.gov.sg/news/press-releases/mediation-act-to-commence-from-1-november-2017/>.

³³ United Nations Convention on International Settlement Agreements Resulting from Mediation, adopted December 20, 2018; Muhammad Faisal Hayat and M. Nawaz Wahla, "Pakistan's Mediation Shift: Implementing the Singapore Convention," *Kluwer Mediation Blog*, August 6, 2025, <https://legalblogs.wolterskluwer.com/mediation-blog/pakistans-mediation-shift-implementing-the-singapore-convention/>.

³⁴ "Pakistan's Mediation Framework to Boost Investors' Confidence: Tarar," *Radio Pakistan*, August 31, 2026, <https://www.radio.gov.pk/31-08-2026/pakistans-mediation-framework-to-boost-investors-confidence-tarar>; "Govt to Table Mediation Law in Parliament," *Express Tribune*, September 1, 2026, <https://tribune.com.pk/story/2626810/govt-to-table-mediation-law-in-parliament>.

the timely resolution of disputes.³⁵ A mandate can respect Article 10A if it compels a good-faith attempt to mediate, not a settlement.

The Court of Justice of the European Union accepted a compulsory out-of-court settlement procedure in *Alassini*, and in *Menini* held that compulsory mediation is compatible with effective judicial protection where the outcome does not bind the parties, the procedure causes no substantial delay, limitation periods are suspended, costs are low and urgent interim relief remains available; a party must also remain free to withdraw after the first meeting.³⁶ Van Rhee similarly concludes that mandatory mediation is consistent with Article 6 of the European Convention on Human Rights where time limits are observed.³⁷

A Pakistani mandate should therefore require attendance at a first session and good-faith participation, with no duty to settle. It should exempt applications for urgent interim relief, cases involving domestic violence, claims close to limitation and cases that require an authoritative ruling on a question of law, building on the “intricate question of law or fact” exception in Section 3(1)(c) of the 2017 Act. It should suspend limitation periods while mediation runs, subject to a fixed outer limit. Finally, it should allow costs against a party who unreasonably refuses to attend, extending Sections 9(5) and 15 of the 2017 Act, which already permit costs for non-attendance and dilatory conduct and allocate the costs of ADR.³⁸

F. Sectoral Adaptation to Pakistan

Building on these comparative lessons, the question then turns to how any such model might be adapted to Pakistan’s specific dispute landscape. There is no supporting evidence for a blanket mandate. Turkey itself sequenced its rollout by sector, extending mandatory mediation from labour disputes in 2018 to commercial disputes in 2019 and

³⁵ Constitution of the Islamic Republic of Pakistan 1973, art. 10A; *Mughals Pakistan*, PLD 2025 SC 1.

³⁶ Joined Cases C-317/08 to C-320/08, *Alassini and Others v. Telecom Italia SpA* (CJEU, March 18, 2010); Case C-75/16, *Menini and Rampanelli v. Banco Popolare Società Cooperativa* (CJEU, June 14, 2017).

³⁷ Van Rhee, “Mandatory Mediation before Litigation,” 8 and 22.

³⁸ The Alternative Dispute Resolution Act, 2017, ss. 3(1)(c), 9(5) and 15.

to lease, co-ownership and neighbour disputes in 2023, which suggests a similar sectoral, limited rollout in Pakistan.³⁹

Commercial and corporate disputes are the obvious first choice, because the courts already support mediation in this field. In *Faisal Zafar*, a restructuring case under Sections 6, 276 and 277 of the Companies Act 2017, the Lahore High Court treated early neutral evaluation as a gateway to mediation and endorsed the expeditious resolution of corporate disputes through mediation.⁴⁰ Labour disputes are a logical second tranche, and they show Turkey's strongest measured impact. Family matters require harmonisation, not simple inclusion.

Section 10 of the Family Courts Act 1964 already requires the Family Court to attempt a compromise or reconciliation at the pre-trial stage, before it frames the issues, and Section 12 requires a further attempt after the close of evidence.⁴¹ A new mediation mandate added to these stages, without reform of them, would duplicate delay in the cases where delay causes the most harm. General civil and property disputes should follow only if the earlier tranches show that the infrastructure can handle the volume.

In summary, the analysis yields four findings. First, the current framework is consent-bound in operation despite its mandatory language, and no official data measure its effect on pendency. Second, the comparators show that sequencing, safeguards and institutional capacity determine whether a mandate succeeds. Third, Pakistan lacks a national mediator-accreditation registry and a distinct enforcement route for pre-action settlements. Fourth, a phased mandate that begins with commercial disputes, moves to labour and then general civil disputes, and is harmonised with the Family Courts Act

³⁹ Yasan-Tepetaş, "Rise of Mediation and Arbitration in Türkiye"; GvW Graf von Westphalen, "Türkiye: Introduction of New Mediation Rules for Certain Civil Law Disputes," June 2023, <https://www.gvw.com/en/news/blog/detail/tuerkiye-introduction-of-new-mediation-rules-for-certain-civil-law-disputes>.

⁴⁰ *Faisal Zafar*, 2023 LHC 6015.

⁴¹ West Pakistan Family Courts Act, 1964 (Act No. XXXV of 1964), ss. 10 and 12.

1964 offers the most realistic path, because it builds on existing infrastructure instead of requiring fresh investment at the outset.

V. SUGGESTIONS AND RECOMMENDATIONS

1. **Phased pre-action requirement:** Parliament, for the Islamabad Capital Territory, and each Provincial Assembly, for its province, should amend Section 89-A and Order X, Rule 1A of the CPC, together with Section 3 of the 2017 Act and the corresponding provincial provisions, to replace consent-based referral with a mandatory pre-action requirement to attend mediation. The requirement should begin with commercial and corporate disputes, where *Mughals Pakistan* and *Faisal Zafar v. Siraj-ud-Din* already support mediation, extend to labour disputes after an evaluation of the first phase, and reach general civil and property disputes only after a further review of capacity.
2. **Enforcement of settlements:** Section 10(1) of the 2017 Act and its provincial equivalents already require the court to pass a decree in the terms of a court-referred settlement. The same legislatures should add a clause enabling a settlement reached in pre-action mediation before an accredited mediator to be recorded as a decree on a joint application, and directing the executing court to dispose of execution of such decrees on a summary basis within a predetermined timeframe (e.g., 30 days), without placing them in the ordinary execution queue. Without it, mediation offers no significant time advantage over litigation at the recovery stage, which the RSIL report notes actively discourages genuine participation. Parliament should align this clause with the legislation implementing the Singapore Convention.
3. **Mediator-accreditation registry:** Before the first phase begins, the Federal Government, in consultation with the High Courts, should establish a national registry of accredited mediators with common training, certification and ethical standards, which the provinces may adopt or mirror by statute.

4. **Exemptions and safeguards:** The amending statutes should state that the duty is to attempt mediation in good faith, not to settle; exempt urgent interim relief, domestic violence cases, claims close to limitation and cases requiring an authoritative ruling on a point of law; suspend limitation while mediation runs; and permit costs against a party who unreasonably refuses to attend.
5. **Family-law harmonization:** The legislatures concerned should amend Sections 10 and 12 of the Family Courts Act 1964 so that court-annexed mediation replaces, and does not duplicate, the existing reconciliation stages.
6. **Funding and case tracking:** The federal and provincial governments should fund mediation centres and additional judicial and mediator posts for each phase, and the LJCP should publish disposals through mediation, settlement rates and time to settlement in its bi-annual statistics, so that each phase is evaluated before the next begins.

VI. CONCLUSION

Mediation mechanism in Pakistan suffers largely because of the gap between legislative authority and enforcement. Pakistan's existing referral-based mediation mechanism is institutionally weak, provisions of ADR act 2017 have conflict among themselves [Section 3(1) and 3(1)(a)], and has universal application regardless of variation in kinds of civil disputes. Comparative analysis from Turkey and Singapore show that that a phased, sector-specific transition from consent to pre-action mandate, backed by accreditation and summary enforcement of settlements, is both institutionally feasible and more effective than a uniform mandate imposed at once.

VII. BIBLIOGRAPHY

1. Aadil, Hafsa. "The Underutilization of Mediation in Pakistan's Justice System: Structural Challenges, Comparative Analysis, and Practical Implementations." Paper, March 31, 2026. <https://ssrn.com/abstract=7140378>.

2. Dawn. "Law: Mediation before Litigation." May 17, 2026.
<https://www.dawn.com/news/2000725/law-mediation-before-litigation>.
3. Ding Kar En, Johan. "Singapore's Informal Justice Experience: Evaluating the Practice of the Small Claims Tribunals." *Singapore Law Review* 41 (2024): 109-140.
https://law.nus.edu.sg/cals/wp-content/uploads/sites/4/2024/11/41-SLR-109-140_Johan-Ding-Kar-En.pdf.
4. *Express Tribune*. "Govt to Table Mediation Law in Parliament." September 1, 2026.
<https://tribune.com.pk/story/2626810/govt-to-table-mediation-law-in-parliament>.
5. GvW Graf von Westphalen. "Türkiye: Introduction of New Mediation Rules for Certain Civil Law Disputes." June 2023.
<https://www.gvw.com/en/news/blog/detail/tuerkiye-introduction-of-new-mediation-rules-for-certain-civil-law-disputes>.
6. Hayat, Muhammad Faisal, and M. Nawaz Wahla. "Pakistan's Mediation Shift: Implementing the Singapore Convention." *Kluwer Mediation Blog*, August 6, 2025.
<https://legalblogs.wolterskluwer.com/mediation-blog/pakistans-mediation-shift-implementing-the-singapore-convention/>.
7. Islamabad High Court. Mediation Practice Direction (Civil) Rules, 2023. Islamabad: Islamabad High Court, October 26, 2023.
8. Khalid, Maryam. "Exploring the Efficacy of Mediation in Pakistan's Conflict Resolution Landscape." *Pakistan Research Journal of Social Sciences* 3, no. 3 (2024).
<https://prjss.com/index.php/prjss/article/view/221>.
9. Khan, Ihtesham Ullah, Nurah Sabahiah Mohamed, and Sodiq Omoola. "Legal Status and Future of Mediation in Pakistan: A Critical Exploration of ADR Frameworks." *Bahria Journal of Law & Social Policy* 6, no. 1 (2024): 1-19.
https://bjlsp.bahria.edu.pk/journal_files/Bjlsp-1.pdf.

10. Law and Justice Commission of Pakistan. *Judicial Statistics of Pakistan* 2024. Islamabad: Law and Justice Commission of Pakistan, 2025. [https://ljcp.gov.pk/SiteImage/Misc/files/6880\(25\)Judicial%20Statistics%202024.pdf](https://ljcp.gov.pk/SiteImage/Misc/files/6880(25)Judicial%20Statistics%202024.pdf).
11. Law and Justice Commission of Pakistan. *2nd Bi-Annual Report of Judicial Statistics, July to December 2023*. Islamabad: Law and Justice Commission of Pakistan, 2024. <https://www.ljcp.gov.pk/SiteImage/Misc/files/bar.pdf>.
12. Radio Pakistan. "Pakistan's Mediation Framework to Boost Investors' Confidence: Tarar." August 31, 2026. <https://www.radio.gov.pk/31-08-2026/pakistans-mediation-framework-to-boost-investors-confidence-tarar>.
13. Research Society of International Law and Legal Aid Society. *Mediation Before Litigation: A Reform Package for Labour and Commercial Disputes in Islamabad*. Islamabad: Research Society of International Law and Legal Aid Society, 2026.
14. Rhee, C. H. van. "Mandatory Mediation before Litigation in Civil and Commercial Matters: A European Perspective." *Access to Justice in Eastern Europe* 4, no. 12 (2021): 7-24.
15. Yasan-Tepetaş, Candan. "Rise of Mediation and Arbitration in Türkiye." *IALL*, February 26, 2024. <https://iall.org/rise-of-mediation-and-arbitration-in-turkiye/>.