MEDIATION IN LABOUR DISPUTES: CAN ALTERNATIVE DISPUTE RESOLUTION REDUCE THE BURDEN ON LABOUR COURTS?

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ABSTRACT

Around the world, labour courts are overwhelmed by huge backlogs, slow processes, and expensive legal fees. This makes it incredibly difficult for both workers and employers to get a fair and timely resolution. To solve this problem, many systems are turning to Alternative Dispute Resolution (ADR) methods like mediation, conciliation, and arbitration. This paper specifically looks at mediation to see if it can truly ease the burden on courts without stripping workers of their legal rights and protections.

Advocates of mediation praise it for being fast, affordable, private, and flexible. However, critics worry that these exact features can harm workers, who are usually the weaker party in an employment dispute. Compared to employers, workers generally have less money, less bargaining power, and less legal knowledge. Because of this imbalance, informal mediation sessions can pressure workers into accepting unfair, lowball settlements just to end the dispute quickly.

Additionally, mediation does not create legal precedents, its outcomes can be hard to enforce, and the quality of mediators varies wildly. While mediation has successfully cut down court backlogs in some regions, it often compromises fairness for speed. This paper addresses a major gap in current research: the tendency to praise ADR in theory without looking at how unfair it can be for workers in reality.

Ultimately, this study examines whether structural safeguards, such as free legal aid, strict minimum settlement rules, and court reviews, can protect workers during mediation. By

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weighing the pros and cons, this paper provides a realistic framework to determine if mediation actually helps workers, or if it simply hides workplace inequality behind closed doors.

Keywords: mediation, labour disputes, alternative dispute resolution, industrial tribunals, bargaining power, labour adjudication.

1. Introduction

Today, the biggest issue facing labour courts and tribunals isn't the law itself, but how long it takes to get things done. Cases routinely drag on for years. For instance, a worker fighting an unfair firing should get answers within a few months. Instead, the process often stretches across four, five, or even ten years. By the time a final decision is made, the worker has usually run out of money to keep fighting, given up entirely, or moved on to another job.[1] This is not merely anecdotal. Data from India's National Judicial Data Grid show that, as of May 2026, more than 1.14 lakh labour and industrial dispute cases remained pending before state-level Labour Courts and Industrial Tribunals, with a further 23,000 cases pending across the twenty-two Central Government Industrial Tribunal-cum-Labour Courts, over a third of which had been pending for more than five years. Numbers of this scale help explain why an informal, faster alternative to adjudication has become so attractive to policymakers and litigants alike.[2] Legal experts have warned us about these massive court backlogs since the 1990s, but despite occasional reforms, the problem has only worsened.

This system failure is exactly why mediation and Alternative Dispute Resolution (ADR) have become such popular ideas in the legal world. The sales pitch is simple: instead of forcing every single argument through an overworked court system, a neutral outsider steps in to help. This third party guides the worker and the employer to an informal agreement, making the entire process faster, cheaper, and far less stressful than a formal trial. Several countries have already institutionalised this to varying degrees. The UK's ACAS conducts early conciliation in nearly every employment tribunal claim before it is allowed to proceed.[3] India's labour dispute

[1] See generally Hazel Genn, Judging Civil Justice (CUP 2009) ch 1, on the persistence of court backlogs across common law jurisdictions.

[2] Newslaundry, 'Over 1 Lakh Pending Cases: Noida Burned After Years of Silence in Labour Courts' (Newslaundry, 12 May 2026) <https://www.newslaundry.com/2026/05/12/over-1-lakh-pending-cases-noida-burned-after-years-of-silence-in-labour-courts> accessed 23 September 2026.

[3] Advisory, Conciliation and Arbitration Service, 'Annual Report and Accounts 2022/23' (ACAS, 2023).

framework has long provided for conciliation as a mandatory first step, a mechanism originally established under the Industrial Disputes Act 1947 and, since 21 November 2025, continued in substantially similar form under the Industrial Relations Code 2020, which repealed the earlier Act.[4] The United States relies heavily on mediation through agencies like the EEOC and private mediation services in unionised workplace grievances.

What is less settled, and what this paper is concerned with, is whether this shift actually helps workers, or whether it simply moves the burden of an unequal system from a courtroom to a mediation room. Speed and cost savings are usually measured from the system's point of view: fewer pending cases, lower judicial expenditure, but rarely from the worker's point of view. A worker who settles quickly is not necessarily a worker who settled well. This paper tackles two main questions at the same time: does informal dispute resolution actually ease the burden on labour courts, and if so, how much does it hurt the weaker party sitting at the bargaining table?

2. Literature Review

Existing research on alternative dispute resolution (ADR) in workplace conflicts generally falls into two distinct categories. Interestingly, these two sides rarely talk to each other; instead, they tend to speak completely different languages.

The first group, mostly made up of legal management experts, sees ADR as an obvious win for efficiency. Their studies measure success by looking at how fast cases close, how much time is saved, and how much money is kept in the bank. Menkel-Meadow's early research on mediation framed it as a great way to give people back control over their own problems, taking power away from aggressive lawyers.[5] Similarly, studies on ACAS's mandatory pre-court conciliation show that these programs successfully keep a huge number of cases out of tribunals.[6] This research is incredibly helpful, but it has a major blind spot: it rarely looks at whether the final agreement was actually fair to the worker, or if it was just fast.

The second group includes labour lawyers and critical legal scholars who are much more doubtful. They argue that settling out of court isn't just a quicker version of a trial; it is an

[4]Industrial Disputes Act 1947, s 12 (India).

[5] Carrie Menkel-Meadow, 'Toward Another View of Legal Negotiation: The Structure of Problem Solving' (1984) 31 UCLA L Rev 754.

[6] Department for Business, Innovation and Skills, 'Evaluation of Acas Early Conciliation 2015' (BIS Research Paper No 258, 2016).

entirely different power dynamic. In this informal setting, the side with less money and fewer resources is automatically at a massive disadvantage.[7] Applied to labour disputes specifically, this concern becomes sharper: an individual worker negotiating directly or through a mediator with an employer who has legal counsel, institutional knowledge, and no urgency to settle is rarely negotiating on equal terms. A handful of Indian studies on conciliation under the ID Act have echoed this, pointing out that conciliation officers are frequently under pressure to close cases quickly, which can translate into settlements that favour the party less interested in prolonging the dispute, usually the employer.[8]

What is missing, and this is really the gap this paper tries to address, is work that sits between these two camps. There is very little scholarship that takes efficiency claims seriously while also empirically or doctrinally testing whether procedural safeguards, legal aid during mediation, minimum settlement floors, and judicial review of mediated agreements can actually close the bargaining power gap that critics like Fiss point to. Most researchers simply pick a side. This paper, however, tries to sit with the tension instead of rushing to a conclusion. Instead of just asking if alternative dispute resolution works, it looks at the specific conditions under which it can work reasonably well.

3. The Case for Mediation - Efficiency Arguments

The idea that mediation makes labour disputes more efficient isn't just a theory; it is backed up by real data, and we cannot just ignore it because we have worries about fairness.

Look at the UK, for example. Since April 2014, workers who want to take their employers to an employment tribunal must first contact a service called ACAS for "Early Conciliation." The goal was to catch problems early, before both sides got too stubborn and legal fees piled up. According to ACAS reports and independent government studies, this approach works. Depending on the year and the type of claim, anywhere from a third to nearly half of these cases are settled or dropped right at this early stage.[9] This keeps thousands of cases out of the courts, and it wraps things up in a matter of weeks rather than the many months a full trial would take.

[7] Owen M Fiss, 'Against Settlement' (1984) 93 Yale LJ 1073.
[8] See e.g. Labour Bureau (Ministry of Labour and Employment, Government of India), 'Report on the Working of the Industrial Disputes Act 1947' (various years).
[9] ACAS (n 3).

India shows a slightly different, but just as revealing, picture. Conciliation was designed as a compulsory first step for disputes referred to it, particularly in cases involving public utility services, originally under section 12 of the Industrial Disputes Act 1947 and, from 21 November 2025, under the equivalent provisions of the Industrial Relations Code 2020[10] Where it functions as intended, conciliation does shorten the road to resolution considerably compared to the alternative, a reference to a Labour Court or Industrial Tribunal, which even under a best-case scenario rarely concludes within two or three years. Several state labour department reports, despite being inconsistent in how they record outcomes, do show conciliation settlements clearing disputes months rather than years.

The United States offers a slightly different flavour, particularly in the unionised sector where grievance arbitration is often the final and binding step under collective bargaining agreements, and separately, EEOC mediation for discrimination-related workplace complaints. The EEOC's own mediation programme reports resolution in well over half of the cases that go through it, and it does so at a fraction of the cost and time of formal EEOC investigation followed by litigation.[11] For an agency dealing with tens of thousands of claims every year, these savings are not just a minor convenience; they are the only thing keeping the entire system from collapsing under its own weight. The scale of this effect is visible in the agency's own figures. In fiscal year 2023, the EEOC conducted 10,404 mediations, of which 7,471 were resolved successfully, returning more than $201 million in benefits directly to charging parties. Figures of this order help explain why the agency continues to expand its mediation programme rather than scale it back, notwithstanding the broader fairness concerns discussed later in this paper.[12]

Beyond the main statistics, mediation offers three specific benefits that matter differently to everyone involved.

The first benefit is **cost**. Going to court involves hidden expenses that people rarely think about upfront. These include repeated hearings, delays, travel costs, and lost wages from missing work. Because mediation usually wraps up in just one or two sessions, it slashes these expenses dramatically.

[10] Industrial Disputes Act, 1947.

[11] Equal Employment Opportunity Commission, 'EEOC Mediation Program' (EEOC, 2022) <https://www.eeoc.gov/mediation> accessed 23 September 2026.

[12] Naomie Malumba, 'The EEOC's Annual Report Features Strong ADR Performance' (CPR Speaks, 2024) <https://www.cpradr.org/news/the-eeocs-annual-performance-report--alternative-dispute-resolution-is-on-the-rise> accessed 23 September 2026.

The second benefit is privacy. Employers are often much more willing to settle and pay out more generously if the details stay private. This can actually help the worker. When both sides want to protect their reputation, it opens the door to flexible solutions that a public court ruling could never offer.

The third and most overlooked benefit is flexibility. A labour court can only award what the law strictly allows, like getting your job back, back pay, or capped financial compensation. A mediated settlement is not tied down by these rules. It can include things a judge cannot order, like a good reference letter, a staggered severance package, or a few extra months of health insurance. For a worker who cares more about survival than proving a point, this flexibility is incredibly valuable.

None of this means mediation is perfectly fair by design. It just shows that its efficiency is real and based on practical advantages. Whether these benefits can survive the massive power imbalance between workers and employers is a completely different story.

4. The Case Against: Power Imbalances and Fairness Concerns

While mediation might sound like an easy win, the reality is far more complicated. The efficiency numbers are real, but so are the serious concerns raised by legal experts for decades.

The biggest issue is bargaining power, and we need to look at what that actually looks like in real life. A worker who has just been fired usually has no job, no steady income, and no savings to survive a long wait. The employer, however, has total stability. They have lawyers on standby, no rush to settle, and the luxury of just waiting the worker out.[13] When one side can afford to wait and the other cannot, a "voluntary" settlement is voluntary in name only. The worker isn't choosing a fair deal over a fight; they are choosing a small amount of money today because they cannot risk waiting for an uncertain outcome year down the road.

This ties directly into the second issue: legal awareness. A worker entering mediation often has no idea what their claim is actually worth under the law. They rarely know how much back pay they can legally recover, what formulas courts use to calculate compensation, or what specific rights they are permanently signing away. This gap in awareness is compounded by the sheer scale of informality in the Indian workforce. According to the Periodic Labour Force Survey

[13] Fiss (n 7) 1075.

for 2023 to 2024, 58 per cent of regular wage or salaried employees in India had no written job contract at all, and just over half had no access to any social security cover. A worker without even a written contract is rarely in a position to independently assess what a tribunal might award, which makes reliance on the mediator's framing of the dispute almost unavoidable.[14]

Mediators, even well-intentioned ones, are not always able to correct this imbalance, particularly where the mediator's institutional role is to close the file rather than to advise either party. Conciliation officers under India's Industrial Disputes Act are a good example here; several state-level studies have noted that conciliation officers, often handling large caseloads with limited staff, are evaluated at least partly on how many disputes they close, which creates a quiet institutional incentive to push for settlement regardless of whether the worker fully understands what they are agreeing to.[15]

That leads naturally into the third concern: pressure to settle. This pressure rarely looks dramatic. It is not usually a mediator openly pushing one side to accept less. It is subtler, a mediator emphasising how long a tribunal case could take, how uncertain the outcome is, how much it will cost to keep going, all of which is technically true, but which lands very differently on a worker who cannot afford three more months without income than it does on an employer for whom three more months is a rounding error. The combined effect of all this is that time pressure, which is supposed to benefit everyone by saving time, ends up working almost entirely in the employer's favour.

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The fourth issue is the lack of legal precedent. Every mediated settlement is private and specific to that one case. It does not create a rule or a standard that the next worker can use to protect themselves. A regular court case, despite its flaws, results in a formal, written decision. These decisions shape how future cases are handled and slowly build stronger legal protections for workers. Mediation does none of this. Every worker has to start from scratch. They negotiate an agreement that helps no one else, which quietly stalls the long-term progress of labour rights. This is a massive drawback that is easily overlooked when people only focus on how fast courts are clearing their desks.

[14] Ministry of Statistics and Programme Implementation, Government of India, 'Periodic Labour Force Survey (PLFS) Annual Report: July 2023 to June 2024' (MoSPI 2024).

[15] See Babu Mathew, 'Labour Conciliation Machinery in India: An Appraisal' (2011) 46 Indian J Ind Rel 213.

Finally, there is the problem of enforcement, which is perhaps the most practical but least talked-about issue. A court order has the full weight of the judiciary behind it and can be enforced immediately. A mediated agreement, depending on where you live, might require a completely separate lawsuit to enforce if the employer breaks their promise. Ironically, this means the worker could end up right back in the slow court system they were trying to avoid in the first place. In India, for example, reports on conciliation show that tracking and follow-up are highly inconsistent.[16] Often, a case marked as "resolved" on paper does not actually match what happens in real life. It is worth noting that the enforcement problem does not run only one way. Independent research commissioned by ACAS on settlements reached before the introduction of statutory early conciliation found that more than nine in ten conciliated settlements were paid in full without the claimant needing to resort to enforcement proceedings, compared with roughly half of awards made by an employment tribunal over the same period. Where an employer's cooperation, rather than a court order, is what actually secures payment, a negotiated settlement can sometimes be more reliably honoured than a formal judgment, even though it lacks the same coercive backing.[17]

Taken together, these five worries do not mean mediation is always a trap. They just show that speed and flexibility are not neutral benefits. They interact directly with the existing power gap between workers and employers. If left unchecked, they usually make that gap wider, not smaller.

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5. Minor but Persistent Issues

Aside from the major structural flaws, there are a few smaller, procedural problems that get ignored in academic writing but happen constantly in real life. They are only "minor" because they are narrower in scope, not because they do not matter. In reality, these details often decide whether a mediation session is truly fair or just fast.

[16] ibid 218.

[17] Personnel Today, 'Acas-Mediated Settlements Paid in Full More Often Than Tribunal Awards, Research Finds' (Personnel Today, 2015), reporting on Acas, 'Payment of Acas Conciliated Settlements' (Acas 2015).

The first is the quality and training of the mediator, which varies wildly.[18] In some countries, mediators are highly trained professionals who know labour relations inside and out, hold certifications, and follow strict ethical codes. For instance, ACAS conciliators in the UK undergo structured training and must meet high internal standards. But in many other places, especially in lower-level, government-run offices- the "mediator" might just be a regular bureaucrat assigned to the desk as part of their routine rotation. These officials often have zero formal training in negotiation or mediation techniques. The quality of the process, and by extension the quality of the outcome, depends heavily on who happens to be sitting across the table, and that is not a reliable basis for something meant to protect a worker's rights.

The second issue is jurisdictional inconsistency. Even within a single country, how mediation is conducted can differ significantly from one state or region to another, particularly in federal systems. India is a clear example, labour is a concurrent subject[19], and state labour departments differ in how actively they staff conciliation machinery, how quickly they schedule sessions, and how seriously they treat non-compliance by employers who fail to attend.[20] A worker in one state may find conciliation genuinely useful, while a worker in another state files a similar complaint and simply watches it sit unattended for months, achieving none of the speed benefits mediation is supposed to offer in the first place. The scale of this unevenness is visible even at the central level, where uniformity should in theory be easiest to maintain. In a written reply to the Lok Sabha in February 2025, the Ministry of Labour and Employment confirmed that eight of the twenty-two Central Government Industrial Tribunal-cum-Labour Courts, including those at Mumbai, Chennai, Ahmedabad and Delhi, had no Presiding Officer in post at all. If the central machinery, which is meant to be the most standardised tier of the system, struggles with this basic staffing consistency, the disparities across state labour departments and their conciliation machinery are likely to be considerably wider.[21]

The third is the absence of standardised settlement benchmarks. Courts, whatever their delays, at least operate within a reasonably predictable range when it comes to remedies, back wages calculated a certain way, compensation within a known statutory band. Mediated settlements

[18] See Susan S Silbey and Sally E Merry, 'Mediator Settlement Strategies' (1986) 8 Law & Policy 7, on variance in mediator training and its effect on outcomes.

[19]Constitution of India 1950, sch VII, List III, entry 22 (Labour as a concurrent subject).

[20]Mathew (n 15) 220.

[21] Ministry of Labour and Employment, Government of India, Lok Sabha Unstarred Question No 135, 'Central Government Industrial Tribunals' (3 February 2025).

have no equivalent reference point. Two workers with nearly identical claims, mediated in different rooms or by different mediators, can walk away with very different outcomes, and neither worker has any real way of knowing whether what they accepted was reasonable. This is not necessarily deliberate unfairness on anyone's part, it is simply what happens in the absence of any shared benchmark to measure a settlement against.

None of these three issues are dramatic on their own. However, these issues make the bargaining power imbalance we talked about even worse. If we are truly serious about making mediation fair, we have to tackle these problems right alongside the larger, structural issues.

6. Possible Safeguards and a Middle Ground

None of the concerns raised in the previous two sections are, by themselves, an argument for abandoning mediation in labour disputes altogether. They are an argument for building it more carefully. If the core problem is that mediation's efficiency comes at the cost of a worker's already weaker bargaining position, then the practical question becomes whether that gap can be narrowed through design, rather than left to the goodwill of whoever happens to be running the session.

The most direct safeguard is mandatory legal aid during mediation, and this is less radical a proposal than it might sound.[22] Several jurisdictions already provide legal aid for tribunal proceedings; extending an equivalent, even if lighter-touch, form of assistance to the mediation stage would address the legal awareness gap discussed earlier fairly directly. This does not need to mean full legal representation sitting across the table, even a short pre-mediation consultation, where a worker is told in plain terms what their claim might realistically be worth under law, would change the nature of the negotiation considerably. A worker who knows the rough value of their claim is far less likely to accept a settlement simply because they are tired of waiting or unsure of their rights. Some legal aid clinics in India and community-based labour rights organisations in the US already provide informal versions of this, but it remains patchy and depends heavily on whether a worker happens to know such help exists.

A second safeguard is having a judge or tribunal review mediated agreements, especially for settlements about job termination or large payouts. This does not mean turning mediation into

[22]See generally Legal Services Corporation, 'Documenting the Justice Gap in America' (LSC 2022), on the effect of legal aid access on negotiated outcomes.

a mini-trial, which would defeat the whole purpose. Instead, a labour court could simply review the paperwork to make sure the agreement is fair and not completely one-sided. This kind of quick check is already used in family and consumer law, and it could easily work here. It would not slow things down much, but it would act as a safety net against unfair deals without losing the speed that makes mediation attractive.

A third option is setting minimum standards for settlements, essentially creating a baseline or "floor" that certain claims cannot fall below. Admittedly, this is harder to do because labour disputes vary so much, and strict rules could ruin the flexibility that mediation is supposed to offer. However, even a rough guideline would help. For example, in wrongful termination cases, you could set a minimum payout based on how many years the employee worked. This would fix the inconsistency problem we mentioned earlier and give both mediators and workers a clear reference point, so they are not negotiating completely in the dark.

Finally, there is growing interest in hybrid models, most notably med-arb, where parties first attempt mediation and, if that fails, move directly into binding arbitration before the same or a different neutral party, without having to restart the process from scratch in a formal tribunal.[23] Some tiered systems go further, layering conciliation, then mediation, then arbitration, with each stage acting as a filter, so that only genuinely contested or complex disputes make their way to a tribunal at all. This kind of structure preserves the speed and cost benefits of ADR at the earlier stages while still leaving a worker with a binding, enforceable resolution if informal settlement genuinely does not work, addressing, at least partially, the enforcement problem discussed earlier as well. India already offers a working, if underused, example of this layered approach. Since the Tenth Five Year Plan, the Ministry of Labour and Employment has operated a scheme of Lok Adalats specifically as an alternative grievance redressal mechanism to clear pending disputes within the Central Government Industrial Tribunal-cum-Labour Courts, alongside camp courts held closer to where workers are based. This suggests that the institutional appetite for layered, low-cost dispute resolution already exists within the Indian system; the open question is less whether such structures can be built and more whether they are adequately staffed and resourced to handle the current scale of pendency.[24]

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[23]Frank EA Sander, 'Varieties of Dispute Processing' (1976) 70 FRD 111, on tiered and multi-door dispute resolution systems.

[24] Ministry of Labour and Employment, Government of India, Lok Sabha Unstarred Question No 1021, 'Pending Cases in Labour Courts' (2 March 2015).

None of these safeguards are a complete fix, and each comes with its own administrative cost and complexity. Ultimately, these points show that we do not have to choose between mediation and a formal court trial as if they are total opposites. The real choice is between leaving mediation completely unregulated or building it with enough built-in protections to actually help the workers it is supposed to protect.

7. Critical Analysis and Discussion

After looking at both sides, the honest answer to our main question is clear: mediation definitely reduces the workload of labour courts; the numbers we looked at earlier prove that. However, whether it actually protects a worker's bargaining power depends entirely on the specific situation, not on mediation itself. There simply is no single, one-size-fits-all answer.

It shifts depending on who is negotiating and what kind of claim is on the table.

The trade-off tips clearly in favour of ADR in disputes involving relatively straightforward, low-value claims, unpaid wages for a fixed period, minor benefit disputes, cases where the facts are not seriously contested and the only real question is how much is owed and when it will be paid. Here, the worker's main interest genuinely is speed, and the risk of an unfair outcome is limited simply because there is not much room for the employer to negotiate the worker down to something dramatically worse than what a tribunal would have ordered anyway. This is roughly the category of dispute ACAS and EEOC mediation programmes seem to handle well, based on the settlement rates discussed in Section 3.

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The trade-off tips the other way, and more sharply, in disputes involving termination, discrimination, or claims where the legal outcome is genuinely uncertain and therefore has real negotiating room built into it. This is exactly where differences in bargaining power matter the most. When a legal claim is uncertain, a wealthy employer can easily pressure a worker into accepting a much smaller payout than a court would give them. The employer simply takes advantage of the fact that the worker cannot afford to wait through a long legal battle. What makes this worse is that these are usually the cases with the highest amount of compensation on the line. In other words, the situations where mediation is least reliable are often the exact same ones where a bad deal costs the worker the most.

There is also a timing element to all of this that academic studies do not always separate clearly. Early mediation, conducted close to when the dispute arises and before either side has invested

heavily in a fixed position, tends to produce more balanced outcomes than mediation used as a last resort after months of stalled negotiation, by which point the worker is often under far greater financial pressure to accept whatever is on the table. ACAS's early conciliation model works partly because it is early[25], it is worth asking whether some conciliation systems elsewhere might work better if they intervened sooner rather than later in the dispute timeline. This filtering function is not merely a theoretical proposal; recent Indian policy has, in effect, tried something similar in embryonic form. Under the labour codes that took effect in November 2025, industrial establishments employing twenty or more workers are now required to constitute Grievance Redressal Committees to resolve individual worker complaints internally before they escalate further, layering an additional informal stage ahead of conciliation and adjudication. Whether this new layer narrows the bargaining power gap discussed throughout this paper, or simply adds one more informal stage at which a time-pressed worker can be worn down, is a question this paper's framework is directly suited to answering, and one that Indian labour scholarship is only beginning to examine empirically.[26]

Put together, this suggests the framing of "ADR versus COURTS" is somewhat the wrong framing to begin with. The more useful question, and the one this paper has tried to build toward through the safeguards discussed in the previous section, is which disputes should be filtered into mediation, under what structural protections, and which should be left to proceed to a tribunal regardless of how much backlog that creates. Efficiency gains that come at the expense of exactly the workers who most need courts protections are not really efficiency gains at all, they are just a relocation of the cost, from the system's ledger to the individual workers.

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8. Conclusion and Recommendations

This paper set out to examine a fairly narrow question: can mediation reduce the burden on labour courts without compromising a worker's bargaining position, and the answer that emerges is neither a clean yes nor a clean no. The data from ACAS, Indian conciliation, and the EEOC clearly show that mediation does reduce court caseloads. However, whether it actually protects workers depends heavily on the type of dispute, how early the mediation

[25]BIS (n 6).

[26] Ahlawat & Associates, 'Key Highlights of Labour Codes' (Ahlawat & Associates, 26 November 2025) <https://www.ahlawatassociates.com/blog/key-highlights-of-labour-codes> accessed 23 September 2026.

happens, and whether there are safety nets in place. If we use mediation as a one-size-fits-all solution, we risk pushing the burden of an overloaded court system onto the workers, who are the least equipped to handle it. On the other hand, if we handle it carefully with the safeguards discussed in Section 6, mediation can be both efficient and fair.

Based on this analysis, there are a few clear recommendations:

- **Encourage mediation for simple, low-value disputes.** This includes straightforward wage claims where the risk of an unfair deal is low and getting a quick resolution is highly valuable.
- **Provide mandatory support for high-stakes cases.** For disputes involving termination, discrimination, or complex legal issues, legal aid or pre-mediation advice should be built into the process automatically, not just left up to whether a worker happens to know about it.
- **Introduce a quick judicial review for major settlements.** Labour departments and tribunals should lightly review settlements involving job loss or large payouts. This check should be just enough to stop completely one-sided deals without slowing the process down.
- **Move mediation to earlier in the timeline.** Instead of using conciliation as a last resort right before a lawsuit, offering it earlier leads to fairer results. This approach needs more attention from system designers.

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Finally, because this paper relies mostly on existing reports and secondary data from a few regions, there is a clear need for more field research. Specifically, we need surveys focused on workers to see how satisfied they are and whether they feel the outcomes were fair. Right now, there is very little research on this compared to the massive amount of writing on court caseload reduction. Until we bridge that gap, any claims about the success of mediation in labour disputes will only tell half the story.

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