



## ROLE OF MEDIATION IN FACILITATING ACCESS TO JUSTICE IN ITS TRUE ESSENCE: A CRITICAL ANALYSIS

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### DOI

10.29121/shodhkosh.v4i2.2023.2311

**Funding:** This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

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### 1. INTRODUCTION

Over the ages, time and again the concept of justice has been discussed by various philosophers and school of thoughts. From Aristotle, Kant, Locke, Rawls to Humes and Amartya Sen; all of them have their own notion of justice. The definitions given by them also varies as per the predominance of a particular characteristic from the whole idea of justice, using which they advocate their thoughts. Justice owes its origin to the Latin word 'jus' which mean right or law. Thus, justice can be presumed to be a state that is 'lawfully right'. At least this happens to be the presumption and belief over which the entire legal system and legal institutions of India function. An act might not be just to one person but if it is rightful according to the law or in other words 'legally right', then indeed it is justice in the eyes of law. Thus, justice is more of a theoretical concept that might change with the changing theory of the person who makes the theory.

**How to cite this article (APA):** Mishra, A., Kharat, M., Acharya, A., Sonawane, A., Shukla, S., and Maurya, S. K. (2023). Role Of Mediation in Facilitating Access to Justice in its True Essence: A Critical Analysis. *ShodhKosh: Journal of Visual and Performing Arts*, 4(2), 1220-1230. doi: 10.29121/shodhkosh.v4i2.2023.2311

### ABSTRACT

The concept of justice is not novel, and so is Mediation. Since the inception of human interactions, disagreements and disputes have been a part of living. When Indian legal System was being formed, it was designed following the adversarial system that seems to favour the strong party and follow the already written law points with little or no room for creative solutions. Also, there are several provisions and arrangements made to extend the access of legal corridors to the underprivileged and left out segments of the society; but this does not ensure that justice has been realised in its true essence. Mere access to legal means, is not access to justice too. This is where Mediation as a means of alternative dispute resolution steps in and creates a comfortable, private, inexpensive and self-determined environment for both the parties at dispute. This paper examines what is true justice and what our constitution makers had in mind in relation to notion of justice when they attempted to give us the related rights. Justifying the stance with real life scenarios and cases, the paper also elucidates how Mediation can help parties achieve justice in its real sense and not just literal or technical.

**Keywords:** Mediation, Justice Delivery System, Alternative Dispute Resolution, Access to Justice, Equity and Equality

# One Justice For All A Critical Analysis

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