



# **FACULTY OF JURIDICAL SCIENCES**

**COURSE: B.A.LL.B.**

**Semester: VIII**

**SUBJECT: Alternative Dispute**

**Resolution**

**SUBJECT CODE: BAL803**

**NAME OF FACULTY: Mohammad Aqib**

# Lecture-31



## LECTURE 31: Difference between Arbitration, Mediation and Conciliation

### Comparison Chart:-

<b>Basis for Comparison</b>	<b>Arbitration</b>	<b>Conciliation</b>	<b>Mediation</b>
<b>Meaning</b>	Arbitration is a dispute settlement process in which an impartial third party is appointed to study the dispute and hear both the parties to arrive at a decision binding on both the parties.	Conciliation is a method of resolving dispute wherein an independent person helps the parties to arrive at the negotiated settlement.	Mediation is a process of resolving issues between parties wherein a third party assist them in arriving at an agreement.
<b>Enforcement</b>	An arbitrator has the power to enforce his decision.	A conciliator does not have the power to enforce his decision.	The decision made by the mediator is not enforceable like an arbitral award.
<b>Regulated by</b>	The Arbitration and Conciliation Act, 1996	Arbitration and Conciliation Act, 1996	Code of Civil Procedure, 1908
<b>Prior Agreement</b>	Required	Not Required	Not Required

<b>Available for</b>	Existing and future disputes.	Existing disputes.	Existing disputes.
<b>Example</b>	Damages in case of breach of contract, matters of the right to the office, time barred claims etc.	Resolving disputes between contractors and subcontractors etc.	Commercial transactions in patents, trademark licenses, Joint ventures and R & D Contracts, music and film contracts etc.

**Key Features:**

1. Arbitration refers to a method of resolving industrial disputes, wherein the management and the labour present their respective positions to the neutral third party, who takes a decision and imposes it. Conciliation is a method of resolving the dispute, wherein an independent person, who meet the parties jointly and severally and helps them to arrive at the negotiated settlement or resolve their differences. The process of dispute resolution in which a third party intervenes in an attempt to resolve it, by enabling communication between parties is called mediation
2. The decision made by the arbitrator is acceptable to the parties concerned. On the other hand, the conciliator & Mediator does not have the right to enforce his decision.
3. Arbitration requires a prior agreement between parties known as the arbitration agreement, which must be in writing. As against this, the process of conciliation doesn't require any prior agreement.
4. Arbitration is available for the current and future disputes whereas the conciliation & Mediation can be adopted for existing disputes only.
5. Arbitration is like a courtroom proceeding, wherein witnesses, evidence, cross-examination, transcripts and legal counsel are used. On the contrary, Conciliation is an informal way of resolving disputes between the management and labour and in mediation, the role of the third party is a facilitator, who facilitates interaction between the parties.
6. Minimizing the cost-exposure entailed in settling the dispute, maintenance of control over the dispute-settlement process and speedy settlement of disputes.

