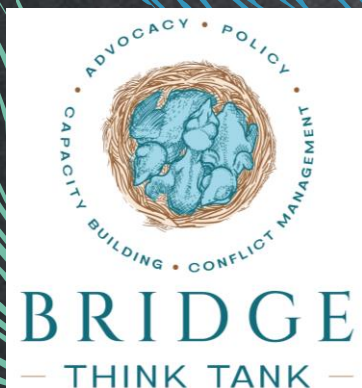




Kritika Krishnamurthy

Advocate & ADR Neutral

Partner, AK and Partners

Director, Bridge Think Tank India

Mediation of Disputes

Moving from Crisis to Consensus

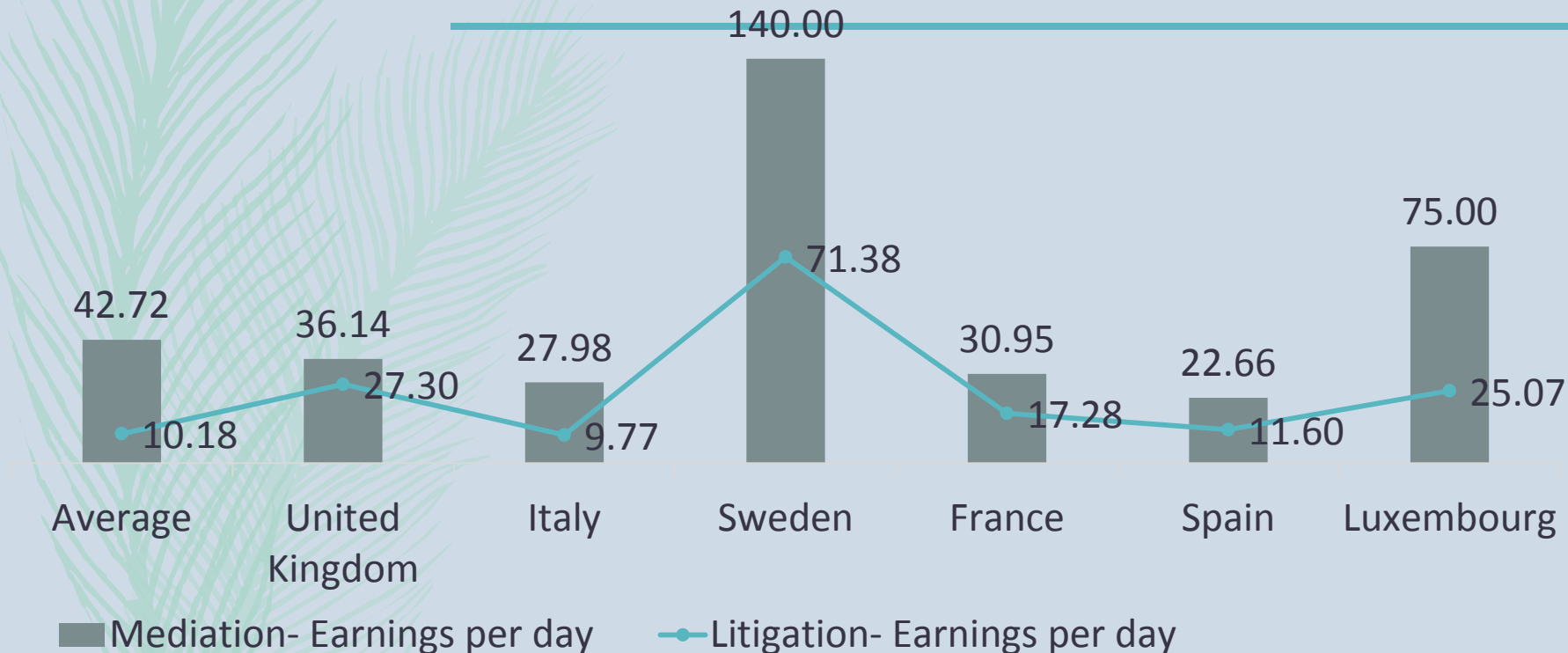
NALSAR PG Diploma in ADR

Conflict Analysis

A conflict is an opportunity to generate
options

ADR- Alarming Drop in Revenue

Increase in Advocate Revenue by using Mediation



Mediation
is contempt
of court

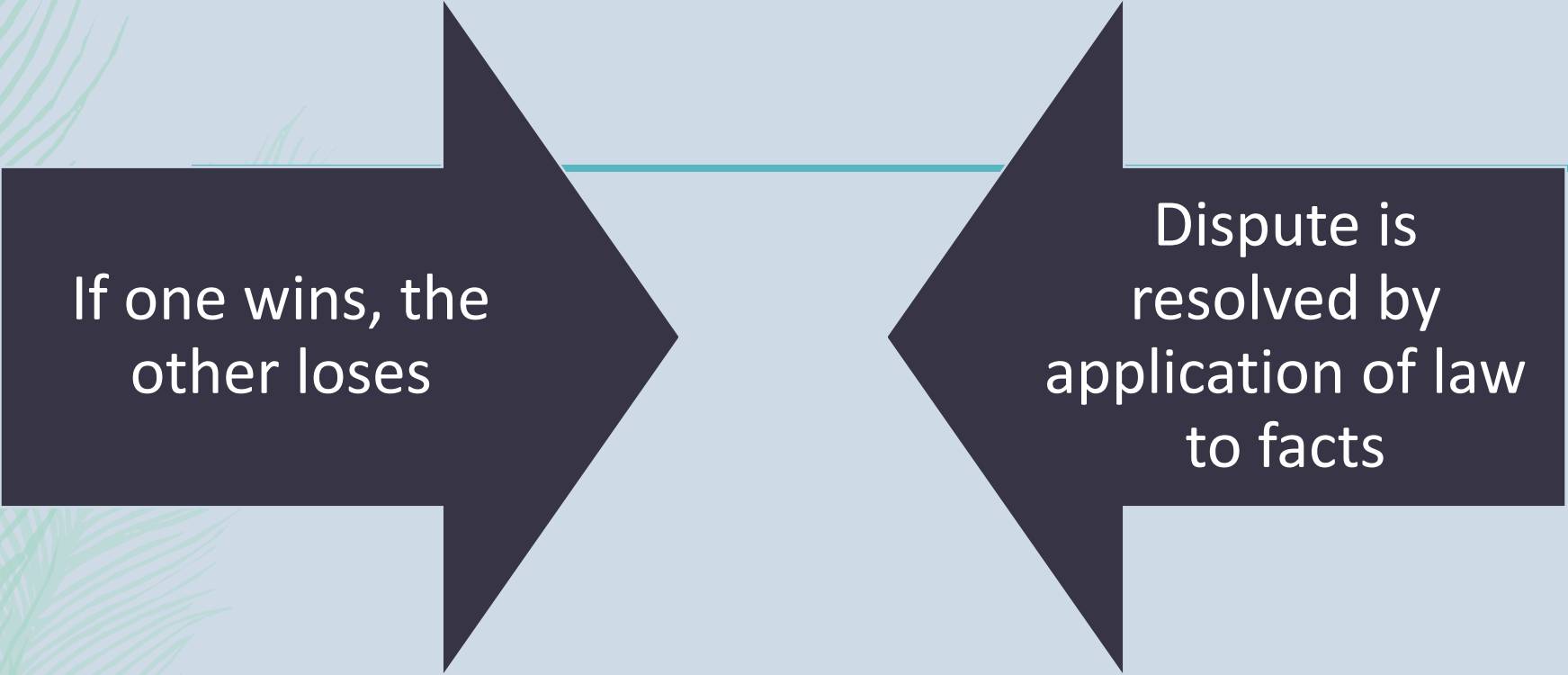
Mediation
Tribunal

Enforceability
of Mediation
Settlement

No
Mediation
statute

Source: European Parliament, *Lessons learnt from the implementation of the EU Mediation Directive: the business perspective* (2011)

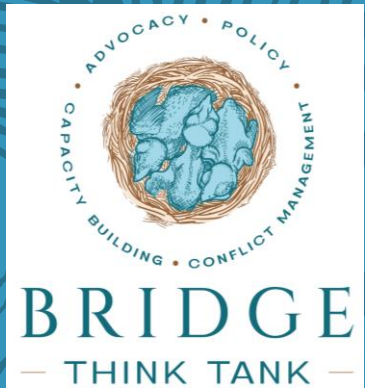
Standard Philosophical Map



If one wins, the
other loses

Dispute is
resolved by
application of law
to facts

We put people and events into categories that are **legally meaningful**, to think in terms of **rights and duties** established by **rules**, to focus on **acts more than persons.**” - Leonard Riskin



What is Mediation?



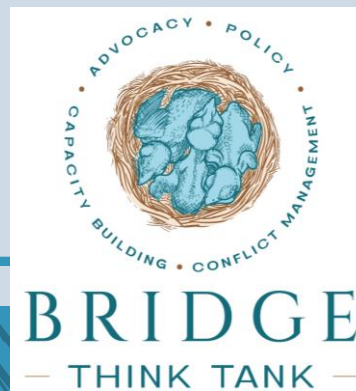
The Thinker on the Gates of Hell

Auguste Rodin (1840-1917)

Friedrich Glasl's Model of Conflict De-Escalation



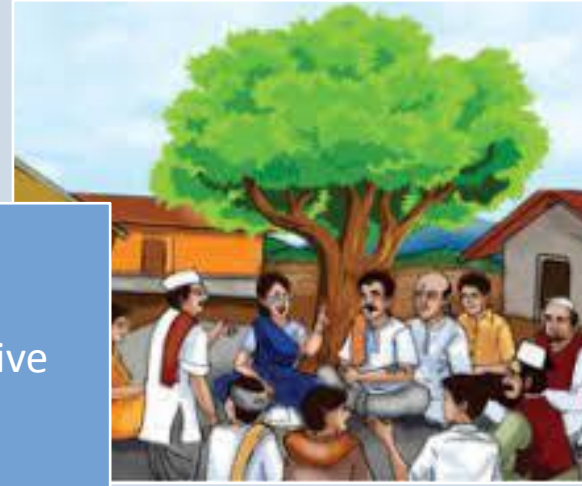
Models of Mediation



Facilitative



Evaluative



Transformative

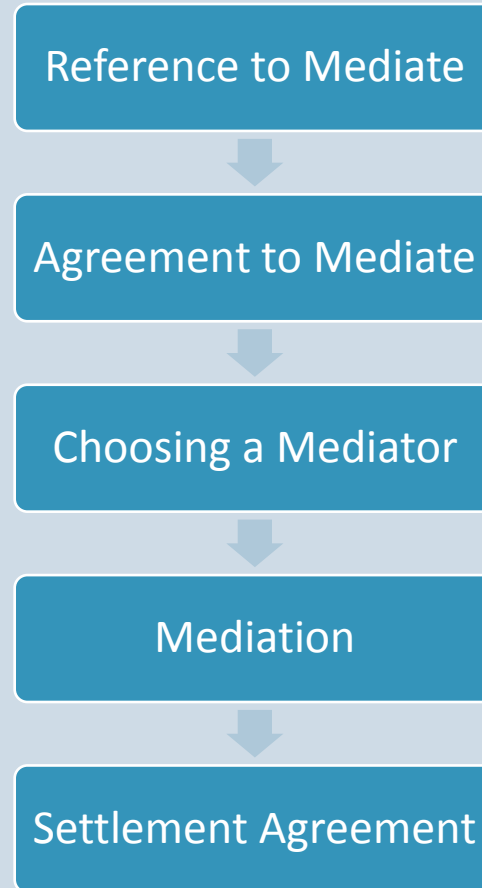


Ad Hoc versus Institutional versus Court Annexed

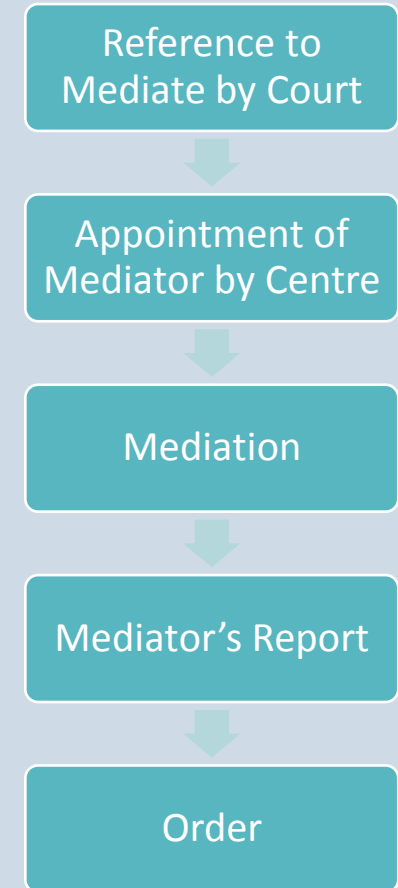
Ad Hoc



Institutional- Private



Court Annexed



The Process

Pre
Mediation
Meetings

Separate
Meetings

Settlement/
Termination

Opening
Presentation

Joint
Meetings

Positions-Interests-Needs



The diagram features a large iceberg floating in a blue ocean under a clear sky. The iceberg is divided into three horizontal sections. The top section, which is above the water line, is labeled 'Positions'. The middle section, which is submerged, is labeled 'Interests'. The bottom section, which is also submerged and appears much larger than the top section, is labeled 'Needs'. To the right of each label is a yellow rectangular box containing a question or statement: 'What?' for Positions, 'Why?' for Interests, and 'Must have' for Needs.

Positions

What?

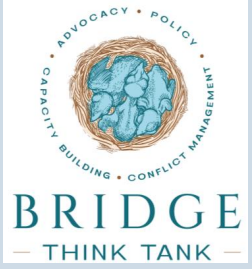
Interests

Why?

Needs

Must have

Key Techniques



- Reframe, reframe, reframe!
- Summarize
- De-escalate
- Gather information
- Don't make statements.... Ask questions
- No Advice, No Blame, No Suggestion, No Compromise, No advocating for 1 party

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