2016 INTERNATIONAL MEDIATION & ADR SURVEY

CENSUS OF CONFLICT MANAGEMENT STAKEHOLDERS AND TRENDS

INTERNATIONAL MEDIATION INSTITUTE

Professional Mediation Worldwide:
Promoting Consensus and Access To Justice

Deborah Masucci
Chair, International Mediation Institute
Former Head of American International Group Inc's (AIG) Dispute Resolution Program

In 2017, the International Mediation Institute (IMI) celebrates its 10th anniversary. As many of us who work in a service industry know, in order to remain relevant, you must know your customer and be adaptable to change direction to meet your customers' needs. This strategic approach is no different in the conflict management and resolution space.

Since its inception, IMI developed global competency standards for mediators, mediation advocates, intercultural dispute resolution, and most recently investor state mediators. Each was a progression based on the needs of the dispute resolution community. But is that enough? Should IMI broaden its mandate? If so, how does IMI add value to the field?

We started this discovery stage by launching this Survey. Ute Quinn summarizes what we have found – an ever vocal mediator community that demands the recognition of their craft as a profession; a younger generation, especially in developing countries who are clamoring for opportunities to break into the field; and a continued need to engage the user and advisor community to determine their future needs.

In 2016, IMI launched the Global Pound Conference to engage stakeholders in a modern conversation about the future of dispute resolution. The first event was held in March in Singapore with the last event scheduled in London in July 2017. There are commitments to hold events in 40 cities across 31 countries. The events are eliciting information about what users want, need and expect; whether the market is addressing user wants, needs and expectations; how can dispute resolution be improved; and what needs to be done in the future? We have already collected a lot of valuable information that will be dissected and analyzed. You can find the voting results at http://www.globalpoundconference.org/gpc-series-data/local-voting-results#.V_O9T5MrLUo .

What I believe we will find is that we are more similar than we think across the globe in our approaches to dispute management and resolution. We also will have in one place responses for the same questions from practitioners around the world. What an opportunity!

The IMI Board will use all this information to develop its short and long term priorities for engagement to bring ADR and mediation to the forefront of dispute resolution efforts. IMI will set its course for the future. We hope you will be part of it.

Ute A. Joas Quinn
Chair, IMI Board Resources Committee, Survey Task Force
Associate General Counsel, Hess Corporation

It is my great pleasure to introduce the 2016 International Mediation & ADR Survey sponsored by the International Mediation Institute. We are most grateful to the 815 survey respondents around the world who together provide a much needed insight into the perceptions of mediation and ADR from the perspectives of all stakeholders to this growing industry.

From a corporate perspective, businesses have long been faced with managing conflicts in a seemingly ever growing number of stakeholder combinations. Though immersed internally, not many of these experiences are vocalized externally, to either capitalize on shared know how or to advocate a view which furthers interests – a missed opportunity for inhouse advisors such as myself. The survey highlights this dilemma, from the proportionate pool of business ("User") respondents to the, at times, vastly differing views of these respondents from all other stakeholders in the survey. If nothing else, the survey highlights that User views matter, both as a needed contribution to the diversity of the discussion as well as a voice which other stakeholders need to hear to spark further efficiencies and innovations in the industry.

Also strangely silent is the voice of advisors and mediation advocates, be they from law firms or elsewhere. The disconcerting disconnect shown in the survey between advisors and their clients underscores the importance of more frequent conversations about mediation between these groups and when it's use might be appropriate.

Mediators are naturally the most vocal about their vocations, but not necessarily on an international scale. The survey appears to highlight that in order for mediators to further refine their industry, mediation will actually need to *become* a profession in its own right. Through uniform, high-quality standards (as Users plead), irrespective of jurisdiction, levels of remuneration which can be expected for a competent mediation professional should then be a natural result.

The survey shows that providers, educators and governments have their ears to the ground, straining to gather information in an area where not all stakeholders have been overly vocal. Lack of data may then, in turn, lead to formalized adaptations of a tool not yet proven to be fit for purpose in non-mandated (voluntary) circumstances.

Finally, younger generations, particularly from developing countries, show the greatest proclivity in the survey towards mediation and the use of web-based tools to develop their practices.

There is clearly much to talk about. We hope that you will find the survey results of interest and at the least serve to foster discussions on this much needed conflict management tool from both within your organizations and outside.

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The 2016 Census of Conflict Management Stakeholders and Trends commissioned by the International Mediation Institute ("IMI") collects and presents statistics and insights of stakeholders regarding Mediation and Appropriate Dispute Resolution ("ADR") Awareness. The survey is believed to be the first ever international census of the mediation/ADR community to date.

The survey addresses the needs of business & advisors, mediators & providers, educators, government, NGOs and other stakeholders in using and/or practicing mediation and ADR. The survey further encompasses market observations on the effectiveness of IMI as an organization overall and whether there are areas of further development in professionalising mediation and also benefitting its supporters.

The survey provides a very useful snapshot of the state of the international market for mediation. The report thus pays focused attention to the respondent profile in the first instance, not only to explain the survey methodology but also to highlight market trends. Although detailed statistics are provided as entered by the respondents in the survey, general summary pages are also provided in the front of each section for ease of review as follows:

- **Executive Summary (slide 5)**
- **Respondent Profile (slide 6)**
- **Managing Work and Conflicts (slide 13)**
- **Relevant Factors in Mediation Practices (slide 21)**
- **Mediator's Role/Features/Overview (slide 28)**
- **Growing Mediation (slide 35)**

Deep appreciation and thanks are extended to the following IMI volunteers constituting part of the IMI Survey Task Force: Khory McCormick (Australia), M. Salman Ravala (New York), Christiane Rosenbaum (New York), and Emma Ewart (New Zealand).

The key findings from this census survey (including demographics) are:

Stakeholders in international mediation ***(Definitions, see slide 10)***

- Respondents are a significant sample (813) representing 67 countries and speaking 49 different languages (pp. 8-9);
- 73% of respondents are over the age of 45 (35% of these are over the age of 60) (p. 11);
- Women are proportionately more represented in mediation (40%) than arbitration (14% according to public surveys)(p. 12);
- 58% of respondents have legal backgrounds, deriving in largest part from those stakeholders who sit around a mediation table – users, advisors, and mediators (pp. 10, 15)
- Regional views differed in significant respects throughout the survey, with Latin America and Africa proportionately more optimistic than North America and Asia on various fronts

Mediators

- 48% of mediators are self-employed; 70% of mediators engage in some other profession in addition to mediation (p. 30)
- More women mediators solely mediate (18% female, 12% male) and mediate solely on a volunteer basis (17% female, 6% male) (pp. 30-31));
- 55% of mediators earn less than $50,000 USD equivalent performing mediation services only (p. 31);
- Marked differences exist between IMI Mediators and mediators overall with respect to motivators and financial standing (p. 31, 33)

Views on international mediation

- Users are dramatically more familiar with mediation (50%) than their advisors perceive them to be (6%) (p. 17);
- Advisors are more familiar with mediation (40%) than Users perceive them to be (30%), and recommend mediation more often (70%) than Users perceive they do (47%) (p.17);
- "Asking Peers" remains the predominant method for advisors to choose mediators (53%), and objective search engines one of the lowest (4%) (p. 18);
- Using a competent professional to aid in resolving disputes ranked highest for Users in business (87%) and individual contexts (78%); all other stakeholders ranked this option generally higher across the board in other contexts (i.e., communities, government, NGOs) as well (p. 19)

Mediation practices

- The "qualifications and experience of a mediator" is the most important factor (75%) for Users to know concerning their work in conflict management; "User views" are the most important factor (75%) for all other stakeholders (pp. 23-24);
- Regarding mediation processes, the lowest rates of extreme importance are the "time mediation takes to resolve a conflict"(36%) and success rates (41%). Enforcement of mediation settlements was of extreme importance for 53% of respondents (56% for users specifically) (p. 25);
- The extent of use of mediation does not hold extreme importance for any stakeholders other than government (52%) (p. 26)

Growing mediation

- 83% of respondents stated that users would have at least some interest in web-based/ automated tools for mediation over the next 5 years, but expressed uniform hesitation at the success these tools would have to resolve conflicts over face-to-face interactions (p. 37);
- Only 17% of respondents stated that legislators had any familiarity with mediation; 18% stated that the executive branch had any familiarity with mediation (p. 38);
- 41% of respondents believe that the judicial branch recommends mediation most or some of the time (p. 39);
- Educators perceive a large student interest in mediation (53%), though course offerings (according to students) appears to be rare (54%) (p. 40);
- 63% of providers stated that interest in mediation training courses will increase over the next 5 years (p. 41).

CHAPTER 1

RESPONDENT PROFILE AND METHODOLOGY

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Overview

This survey was conducted in Q4 2015/Q1 2016, through an online questionnaire. The response rate was high.

The respondent base of this survey is more representative than other stakeholder surveys conducted to date with respect to conflict management in general and mediation in particular . With 813 total respondents, the respondent profile* includes a good snapshot of market segments, including a significant number of users, advisors, service providers, educators, students and government/non governmental organization (NGO) stakeholders represented in addition to the majority demographic of mediators. These market segments represent 67 countries speaking 49 different languages worldwide.

The translation of the survey into Portuguese produced marked additional responses and gave a strong diversity quality to the survey. Future surveys may well benefit from additional translations to even better improve results.

From a gender perspective, the size of the female respondent pool (40%) suggests a significantly larger involvement in consensual decision making activities than the comparative pool involved in arbitrations (see, e.g., 16% women respondents to 2013 CCA/Straus Institute Survey of US arbitrators; 14% women respondents to 2015 Chartered Institute of Arbitrators survey). This may be due to increased educational opportunities or lower barriers to entry, though survey results demonstrated that professional barriers – across the board but particularly among women – may still be preventing women mediators from earning a sustainable income through solely conducting mediations.

Age demographics also reflect the continued dominance of older men (aged 60 and over) particularly in North America and Australia/New Zealand in the mediation sector.

The largest enthusiasm for mediation-related issues come from the younger populations, the largest majorities of which are based in Africa and Latin America.

*For Respondent/Stakeholder Definitions, see page 10

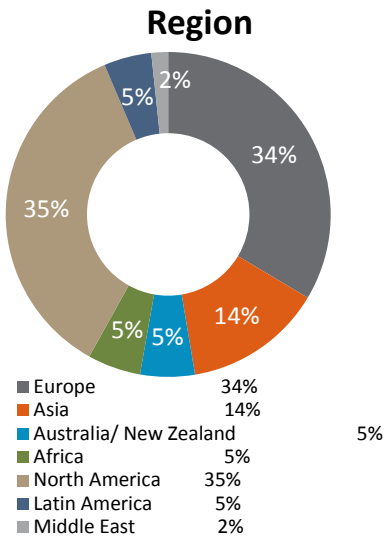
Respondent profile

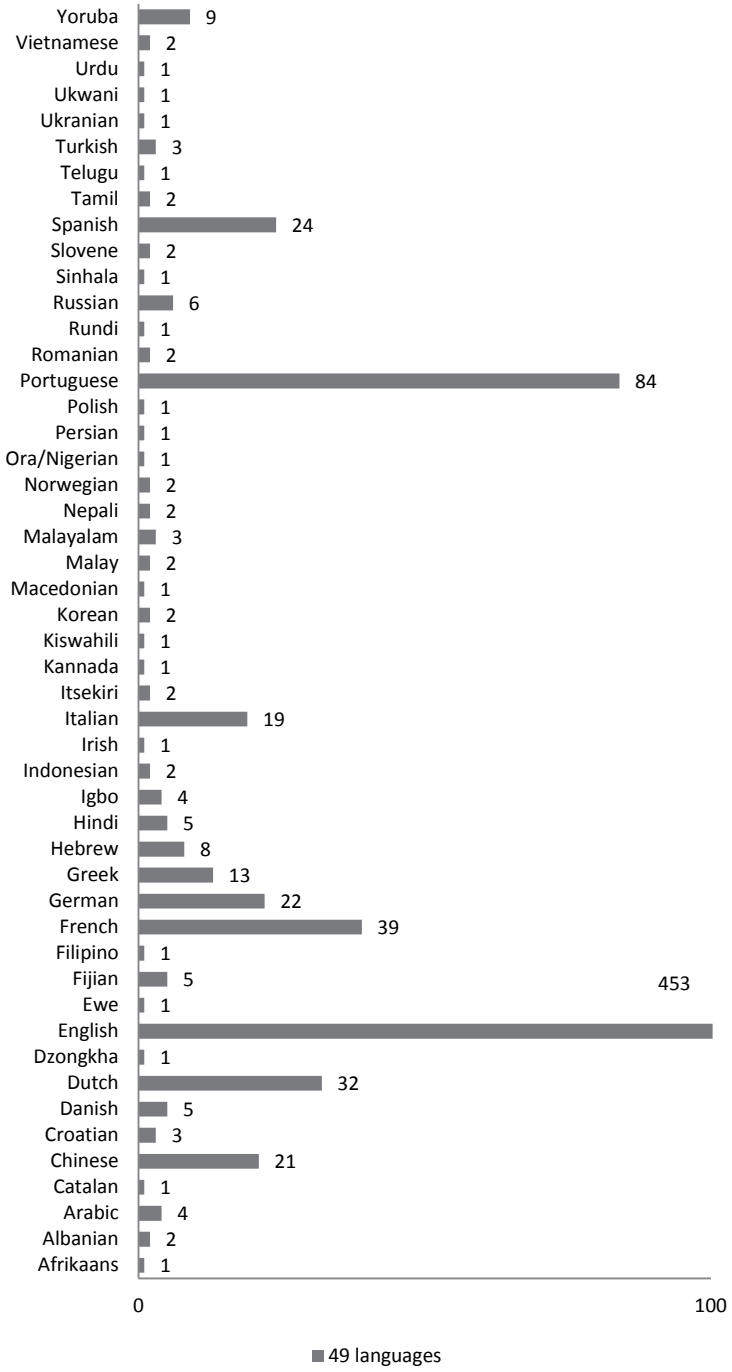
Significant sample: The survey sample represents a diverse and global cross section of respondents representing all ADR stakeholders. 813 stakeholders responded to the survey from 6 regions, representing 67 countries and speaking 49* different languages.

Although the survey was conducted in English, a Portuguese translation was also circulated, which generated 55 additional native Portuguese-speaking respondents.

This survey was conducted in the period from end of 2015 to the beginning of 2016.

*62% of respondents have English as their native language





Large and Diverse Country representation

For regions comprising a large number of countries, no cultural specific reflections were possible.

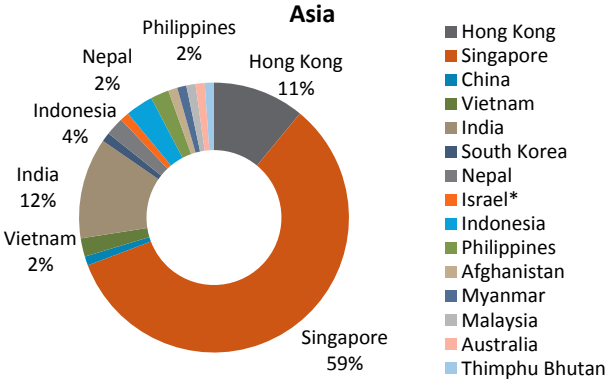
For example, Europe, which comprises 34% of the total number of respondents, is represented by 29 diverse and culturally distinct countries.
Asia, comprising 14% of total respondents, is represented by 15 countries.

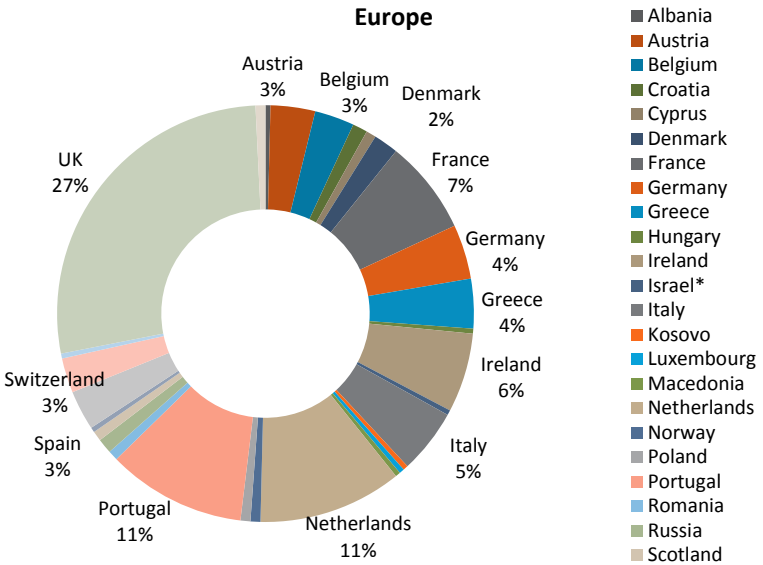
Latin America, comprising 5% of total respondents, is represented by 7 countries.

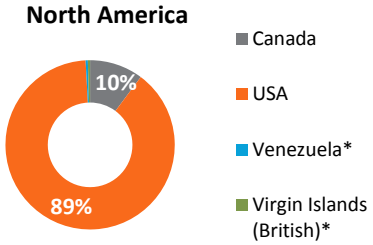
The Middle East, comprising 2% of respondents, is represented by 6 countries, while Australia/ New Zealand (5%) is represented by 4 countries.

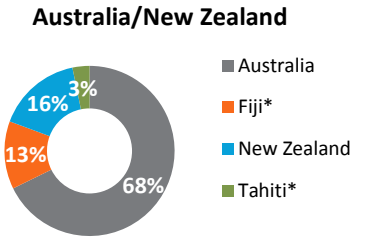
In contrast, North America, which comprises 35% of the total number of respondents, is comprised of 4 countries.*

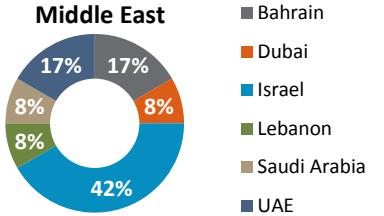
*countries listed as self-reported

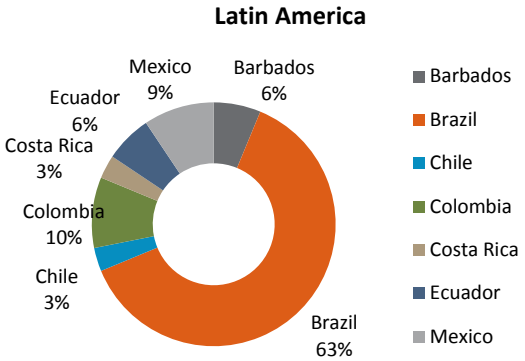












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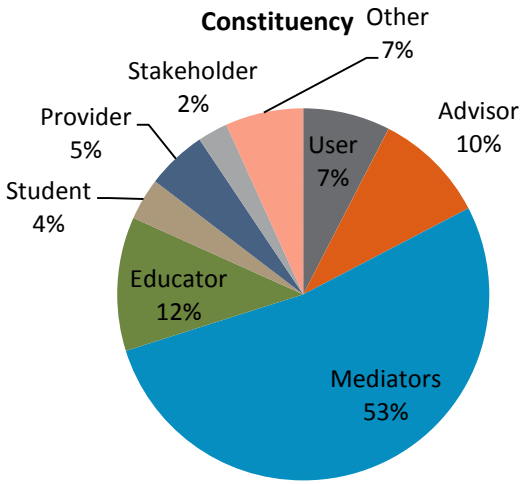
Diverse Stakeholders Q12

In order to understand and differentiate between viewpoints, respondents were asked how they were connected to mediation (respondents were self defined and not otherwise verified through the survey):

- **Users**. Those who may potentially use mediation ("**Users**") make up 7% of respondents, the largest groups of which divided between 10% of North America, 15% of the Middle East*, 7% of Australia/NZ, 6% of Asia and 5% of both Africa and Europe.
- **Advisors.** Those who (may) recommend using mediation as external counsel, consultant or User representative ("**Advisors**") make up 10% of respondents, with the largest groups divided between Africa (13%), Asia (12%), Europe (12%) and Latin America (8%).
- **Mediators.** Those who conduct mediations ("**Mediators**") make up the majority (53%) of respondents, with the largest groups divided between Australia/NZ (65%), North America (59%), Europe (52%), Asia (51%), Latin America (46%) and the Middle East (30%)*.
- **Educators**. Those who teach mediation or train mediators and/or mediation advocates/ advisors ("**Educators**") had the largest distribution of Educators come from Latin America (14%), Africa (13%), Asia (13%), and Europe (12%).
- **Providers**. Those who arrange and administer mediation, or provide other products/ services to the ADR industry ("**Provider**") had the largest distribution of Providers come from the Middle East* (15%), Africa (8%), Latin America (7%), and Asia (6%).
- **Students**. Those who study mediation ("**Students**") had the largest distribution of students come from Africa (8%), Latin America (5%), Europe (3%), and Asia (3%).
- **Other stakeholders.** Those who are otherwise interested in mediation as a conflict management stakeholder (e.g., government, NGOs, etc.) ("**Stakeholders**") were only prevalent in Latin America (7%), Asia (5%), North America (1%) and Europe (1%).



*small base

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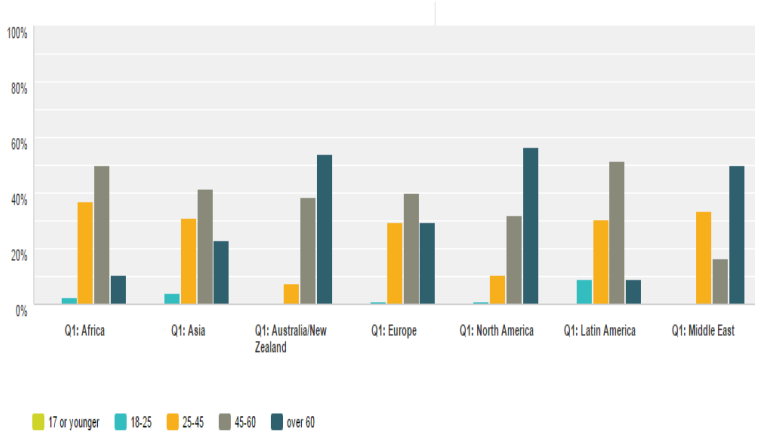
Age Ratios

Age is a contributing factor in the level of interest in conflict management. The total range of ages of respondents were 25 or younger (2%), 25-45 (23%), 45-60 (38%), and over 60 years of age (35%). North America had the oldest category of respondents (56% over the age of 60), followed by Australia/ New Zealand (53% over the age of 60) and the Middle East (50% over the age of 60).*

The largest representation of young respondents aged 45 and under came from Africa (40%) and Latin America (38%), followed by Asia (35%).

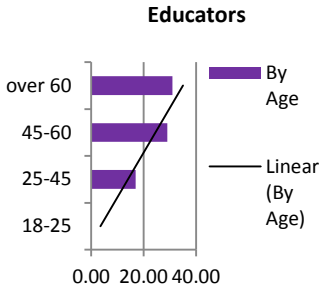
*small base

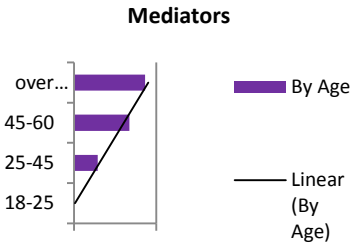
Female population generally younger. 71% of women respondents are ages 25-60 as opposed to 52% of men in the same age group. Only 27% of women are aged over 60 compared to 45% of men in this respondent pool.



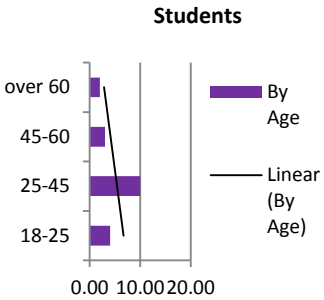
In terms of stakeholders, students generally made up the youngest population, followed by advisors and providers. Users and other stakeholders such as government/NGOs, fell in the mid-range while mediators and educators made up the most senior populations.

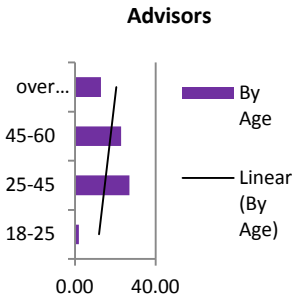
Most senior stakeholders

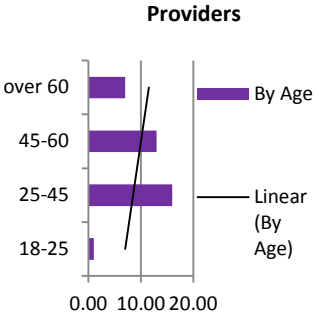




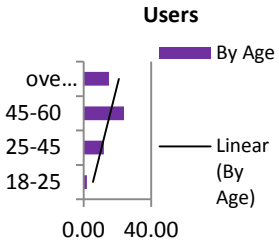
Youngest stakeholders

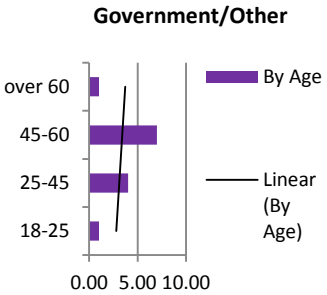






Midrange stakeholders



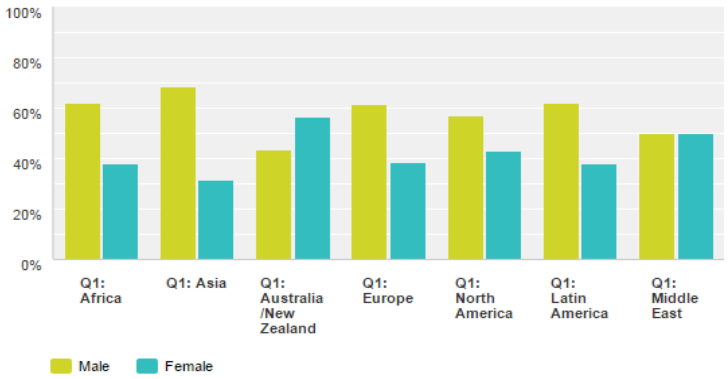


Gender Ratios

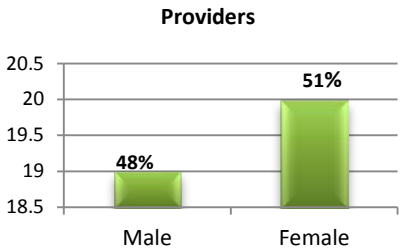
Predominantly male response. The majority of all respondents were male (60%). Regionally, Australia/New Zealand had the highest proportion of women respondents (56%), followed by North America (42%) and the Middle East (50%).*

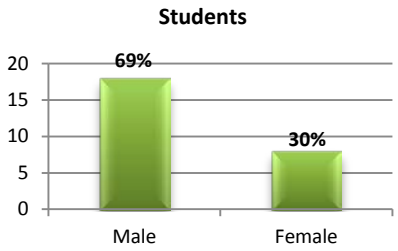
The largest disparity in genders exists in Latin America (71% male), Asia (68% male), and Africa (63% male), with Europe not far behind (62% male).

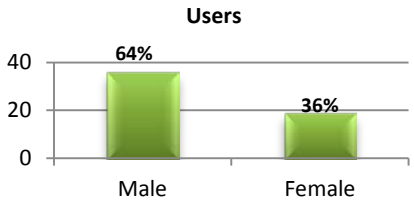
*small base

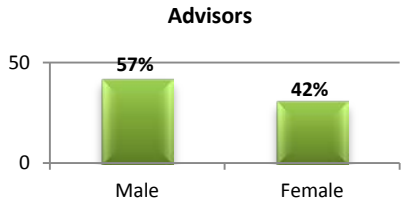


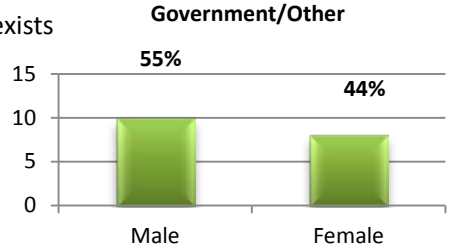
Stakeholders generally lack gender diversity. With one notable exception, the majority of all stakeholder groups were male. Females constitute the majority of Provider respondents (51%), with the next highest female populations coming from governments/ other (44%), and Advisors (42%). Also noteworthy is that the largest disparity between genders exists among student respondents (69% male), with the next largest disparity (64% male) shared between users, mediators and educators.

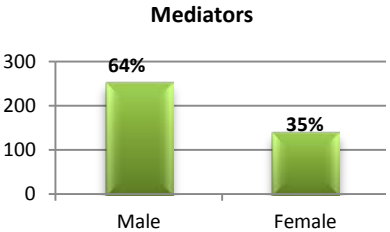


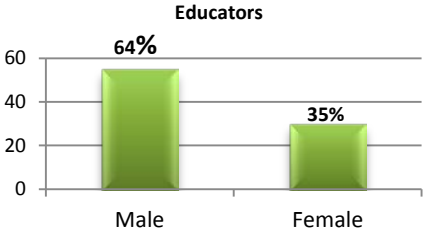












MANAGING WORK AND CONFLICTS

Although respondents overall indicate a large array of professional backgrounds, the majority of professionals (58%) come from a legal background, represented most strongly by users and advisors, followed by mediators and providers. The largest respondent pool amongst all stakeholders are self-employed.

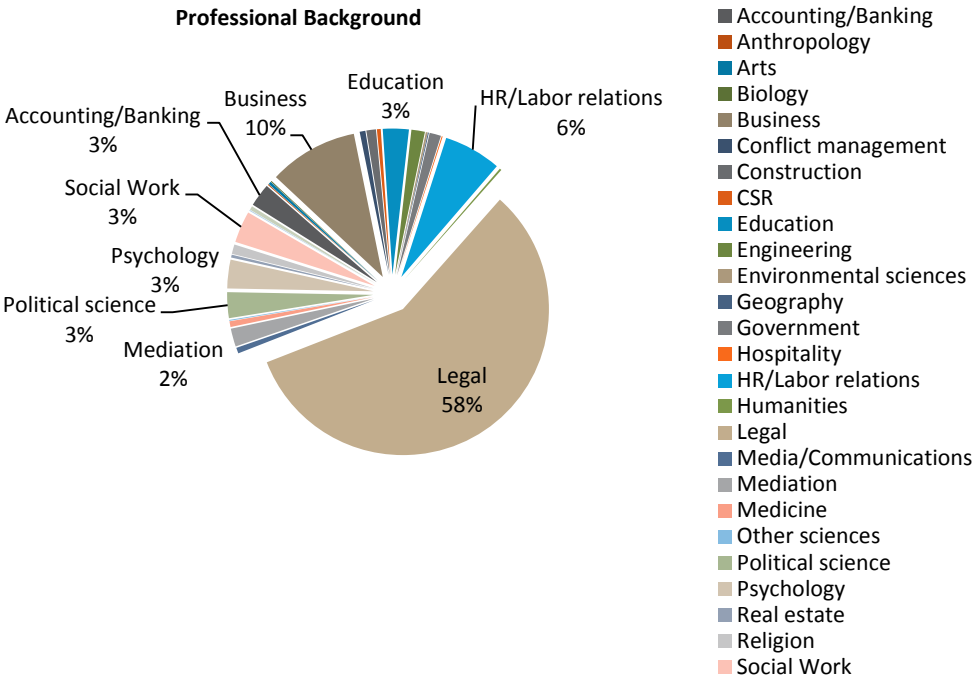
In managing work and conflicts, there is a clear perception differential between Users and the advisors who represent them both as regards conflict management in general and mediation in particular. Users in this respondent pool may qualify in the category of "sophisticated users", i.e., being very familiar with the main forms of conflict management and resolution -- including mediation – dramatically more than they were given credit for by their advisors. Though advisors perceive themselves to know more about consensual decision making tools than their clients, and perceive themselves as regularly recommending mediation, clients experience this differently. This suggests a significant disconnect in perceived strategy alignment on how to manage conflicts and the role mediation might play therein.

Survey results demonstrate the importance of obtaining user views in an area in which their views may differ – at times dramatically – from the remainder of the stakeholder populations. One such area is the marked difference in views of the potential breadth of use of third party facilitators depending on the parties (business, individual, government, NGO) to the conflict. The narrower use of a competent professional for business and individual disputes by users reflects perhaps how mediators transport themselves into market segments, i.e., suggesting that mediation skills may be brought into businesses and governments internally for certain types of disputes, but not the mediation itself through use of an independent third party.

28 Professions Represented

Large diversity in professions. Of 815 overall respondents, 944 responses were received representing 28 different professions (suggesting multiple educational qualifications per individual).

By far the largest representation (58%) is among the legal profession (543 individuals). 93 individuals (10%) responded that they have a business background, followed by 60 individuals (6%) with a human resources/labor background. 3% (each) of respondents represent social work (33), psychology (30), education (27), political science (27), and accounting/ banking (24). The remaining 10% of responses are split as shown in the adjoining Chart, with 2% of respondents describing their professional background as "mediation".



More homogenous negotiating tables. Despite a wide array of professional backgrounds, the least diverse of the stakeholders were those who typically sit at the negotiating table. Users and advisors had the largest representation of legal backgrounds (76% and 80% respectively), followed by mediators and providers (69% each). Although the largest proportion for (government) stakeholders was also legal (33%), strong showings existed also for human resources (22%), political science (11%), and "other" professions (22%). Students were perhaps the most diverse in backgrounds (61% legal, 30% "other"), followed by educators (63% legal, 24% "other").

There were no appreciable differences amongst genders or regions in this category.

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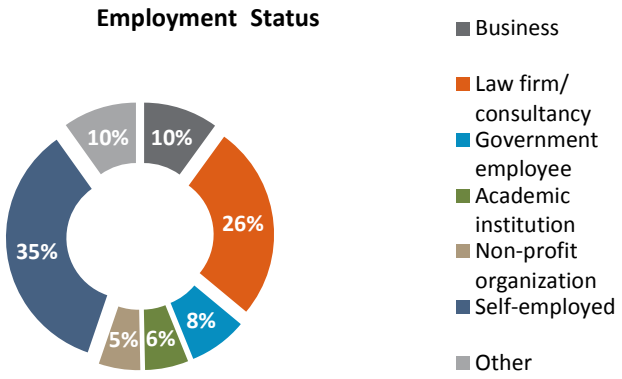
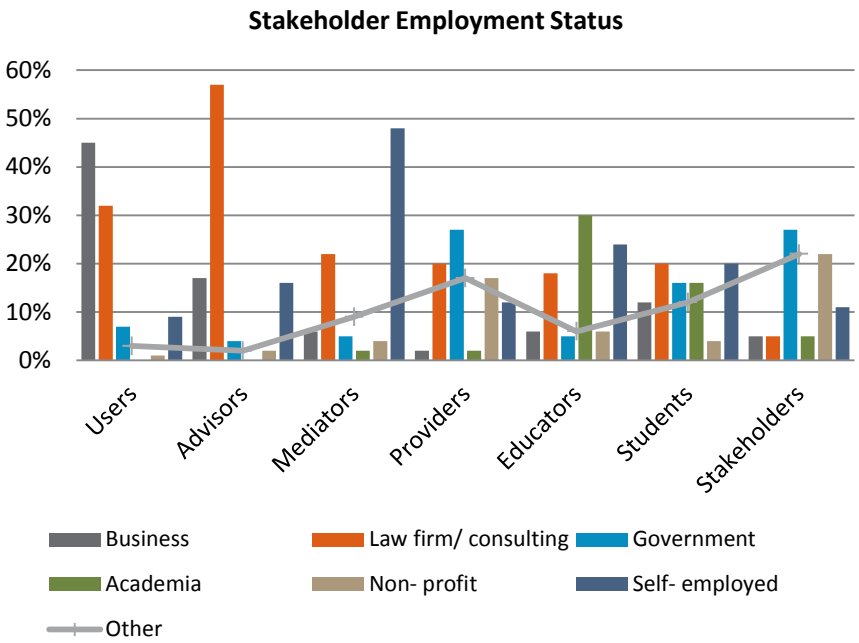
Employment status Q6

In order to understand the support network of the respondents they were asked about how and where they were employed:

- There was a clear trend from a majority of respondents who were either self-employed (35%) or working for a law firm or other consultancy (26% of respondents).
- Almost half of self-employed respondents were mediators (48%), followed by educators (24%) and students (20%).
- The largest proportion of providers were employed by government (27%), followed by consulting firms (20%), and non-profit organizations (17%).
- The largest proportion of "other" stakeholders are employed by government (27%), followed by nonprofit organizations (22%).



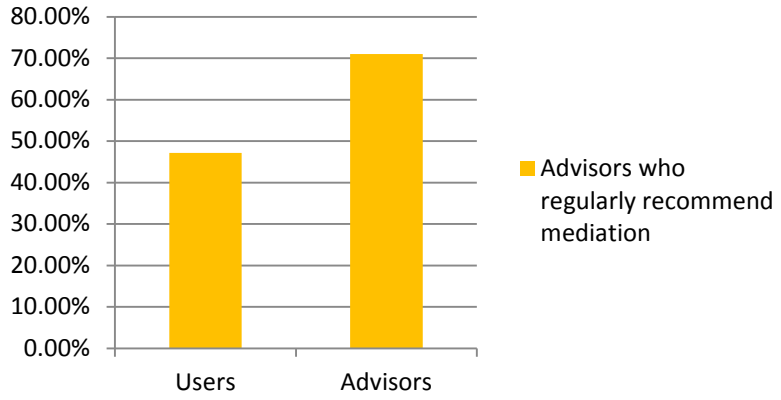


What is the level of familiarity with mediation (real and perceived)? Q13, Q15, Q19, Q20, Q23

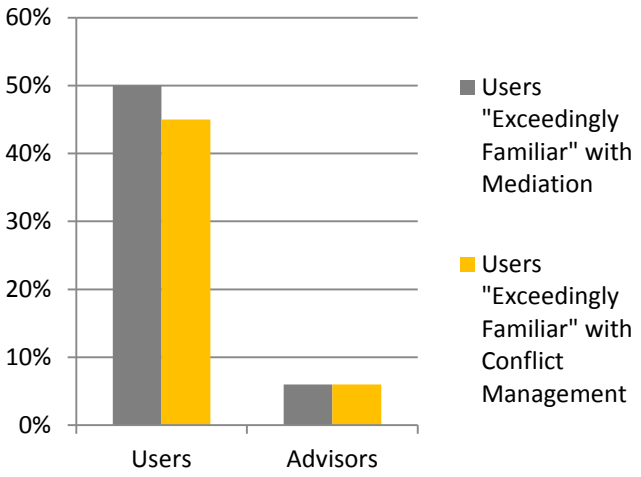
Perceptions between advisors and their clients varied (at times dramatically) with respect to the level of knowledge possessed about ADR and mediation:

- Advisors perceive their clients to be markedly less familiar with mediation (6%) and conflict management (7%) than users themselves feel about mediation (50%) and conflict management (47%).
- Advisors also had much higher perceptions of their own familiarity both with conflict management in general (49%) and mediation (40%) than client users had about their advisors – perceiving that 46% of advisors were exceedingly familiar with conflict management while perceiving that only 30% of advisors were exceedingly familiar with mediation.
- User respondents who stated they are "exceedingly familiar" with mediation (50%) outnumber their advisors (40%).
- Advisors overwhelmingly felt that knowing how best to use mediation as part of their work was very valuable (78%).
- However, in terms of recommending mediation, Users responded that their advisors recommend mediation less than half of the time (47%), while advisors responded that they recommend mediation the predominant majority of the time (70%). The results suggest a significant disconnect in perceived strategy alignment on how to manage conflicts and the role mediation might play therein.

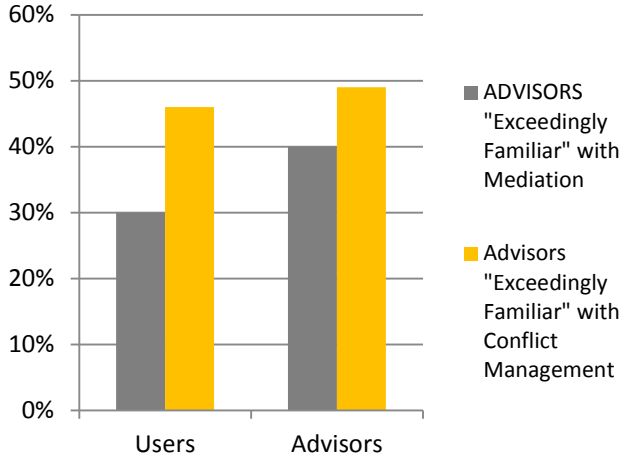
Perceptions regarding suggesting mediation



Perceptions regarding Users



Perceptions regarding Advisors



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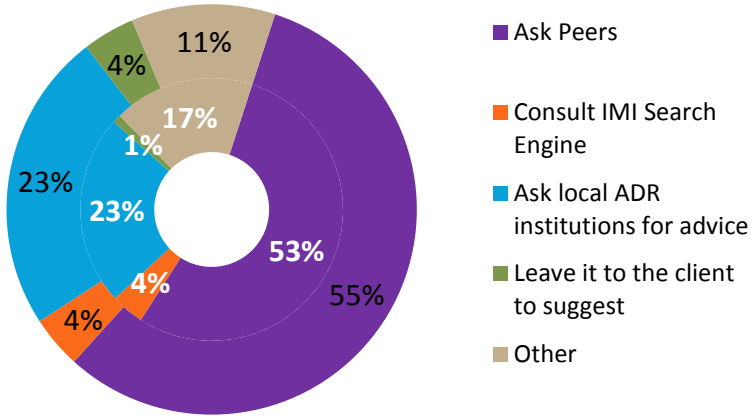
How are mediators chosen (real and perceived) Q22, Q39

- The advisor's method of choosing mediators (inner circle below) coincides almost exactly with the perceptions of other stakeholders' (outer circle below) on how parties and their advisors choose mediation, i.e., by asking peers and relying on one's own network (53%).
- Those who do go beyond their network ask local ADR institutions for advice (23%).
- Almost no one (1%) would leave such a task solely to the client to suggest, which infers a strong disconnect between the high level of knowledge users claim to have concerning mediation and the practical use of that knowledge when it comes to choosing a mediator.
- Search engines with objective third party feedback on mediator performance is also rarely used (4%).

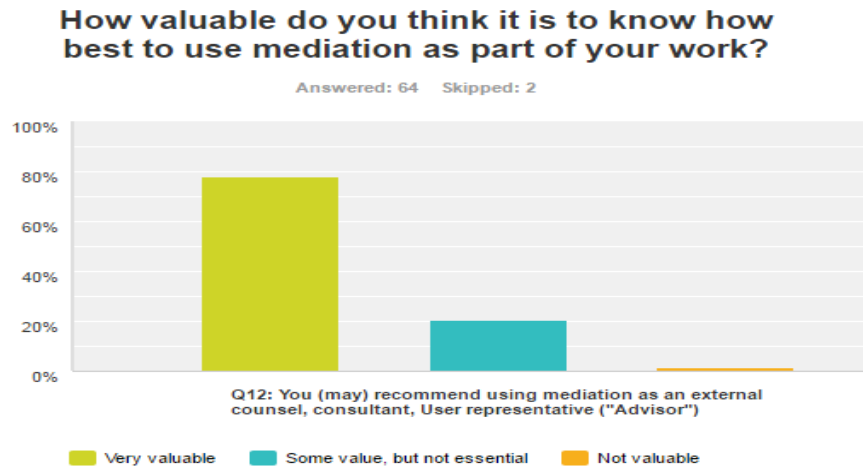
"A happy client reinforces the relationship he has with his counsel. The client has a win, so [does] his initial opponent but also ultimately the counsel. Everyone wins."

"The major problem is to convince my clients, etc., to rely on ADR (except possibly, commercial arbitration instead of courts of crown)"

How Advisors choose mediators



Learning about mediation very valuable



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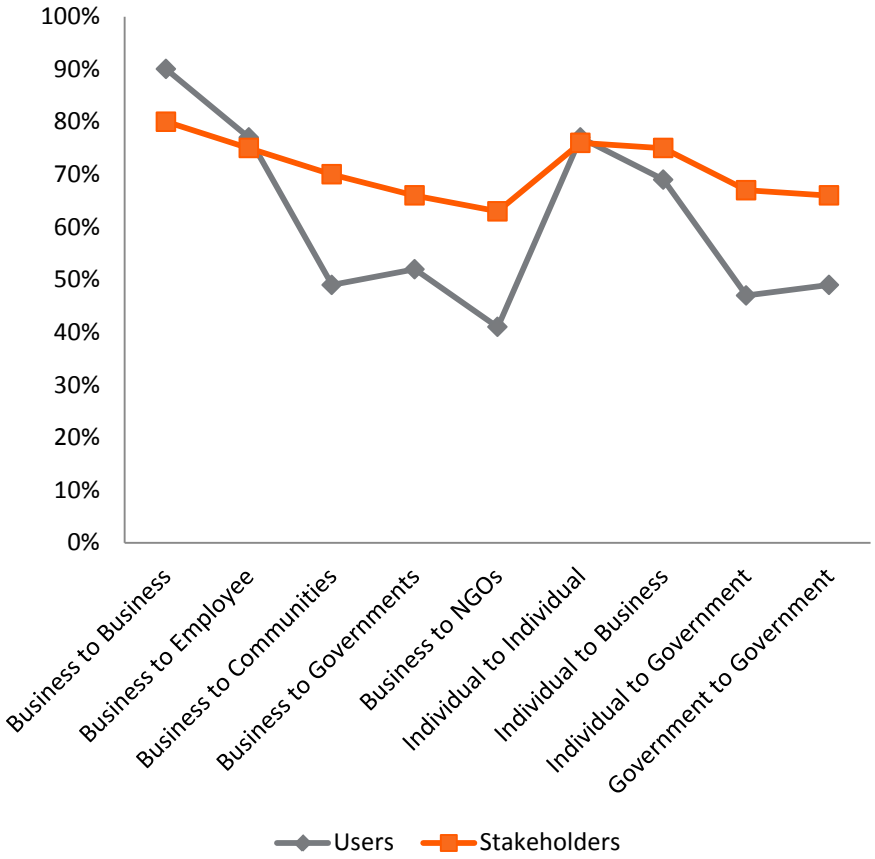
Potential uses of a competent professional/mediation Q17, Q38

In order to assess the potential breadth of use of mediation, respondents were asked in which areas conflicts could be facilitated by a competent professional:

- **Users.** Generally Users were the most optimistic about using such professionals in the business to business context (87%), business to employee context (74%), and individual to individual context (78%). Individual to business disputes also scored relatively high as a possibility (67%).

- **Other Stakeholders**. In all other areas, however, other stakeholders were more optimistic than users about the potential for using a competent professional, including disputes between businesses and communities (65%), between business and government (61%), between business and NGOs (59%), between individuals and business (69%), individuals to government (63%), as well as between governments (62%).



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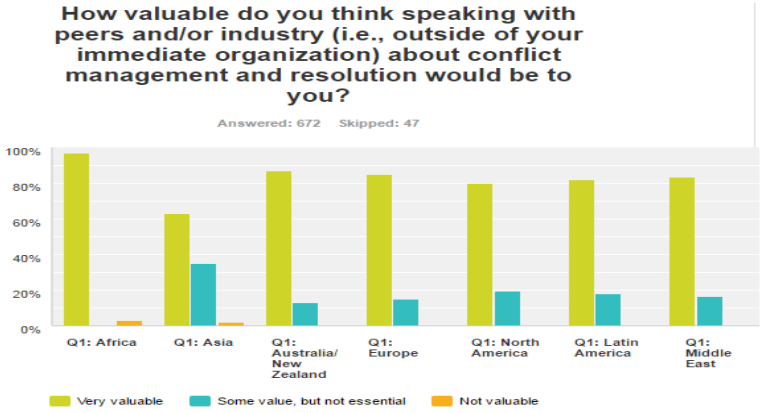
Exposure to conflicts and levels of discourse Q7, Q9, Q10

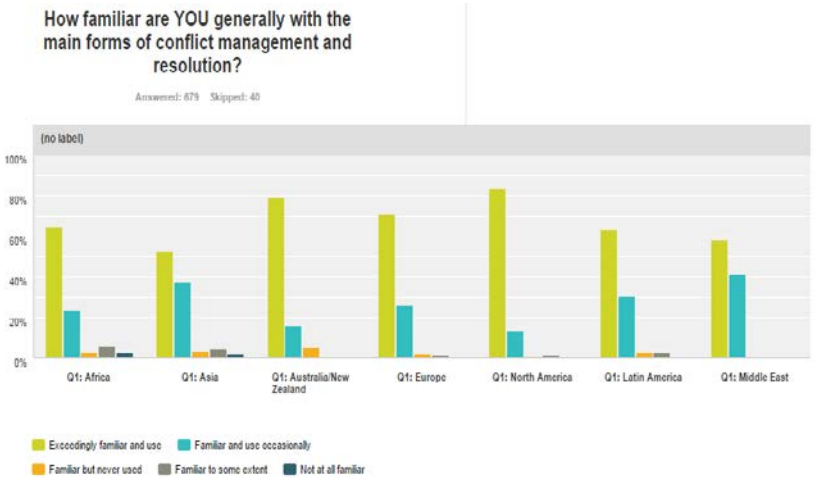
In describing practice experiences, 83% of respondents said their work involves some form of conflict management or dispute resolution either frequently or "all the time" .

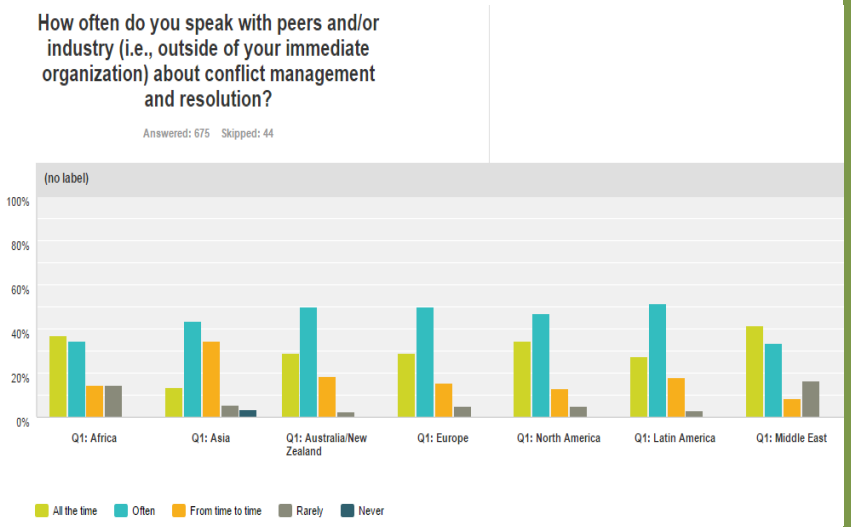
Consequently, not surprisingly 70% of respondents said that they are "exceedingly familiar and use" the mainstream forms of conflict management and resolution.

- The highest levels of familiarity and use exists in North America (83%), Australia/New Zealand (79%), and Europe (68%).
- The "lowest" levels of "exceeding familiarity and use" arose in Asia (52%), the Middle East (61%), Latin America (56%) and Africa (62%), but these were still majorities.
- Only Africa (2%) and Asia (2%) had any respondents who were not at all familiar with the mainstream forms of conflict management and resolution.

The majority of respondents (76%) speak with either peers and/or industry about conflict management and resolution either "often" or "all the time", with only (17%) finding such engagement to be nonessential.







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RELEVANT FACTORS IN MEDIATION PRACTICE

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Overview

The worldwide audience is interested in advocacy of mediation – of educating the Users on mediation and on developing uniform international standards. They are aware that education and qualifications for mediators are very important but found a gap in uniformity overall:

- Over 75% of stakeholders responded that User views on mediation are the most important factor as concerns their work in conflict management.
- Only 36% considered *the time mediation takes* to resolve a conflict as being extremely important (noteworthy against the importance placed on User views).
- Similarly, only 41% found the *success rate* of mediation as extremely important or the *types of conflict* mediation could be used for (39%).
- The importance of User views is only overshadowed slightly in certain regions by the importance of mediator qualifications and experience. Approximately 50% of respondents think it is extremely important to know what mediators think of the practice of mediation. Given that mediators are often unregulated and there is no current structured licensing or other regulatory requirement globally, and those that have become mediators have chosen to do so voluntarily to advance their careers or grow their business, this response makes sense. As compared to User views, this showcases perhaps the focus of the user-friendly and flexible process of mediation for the benefit of users.

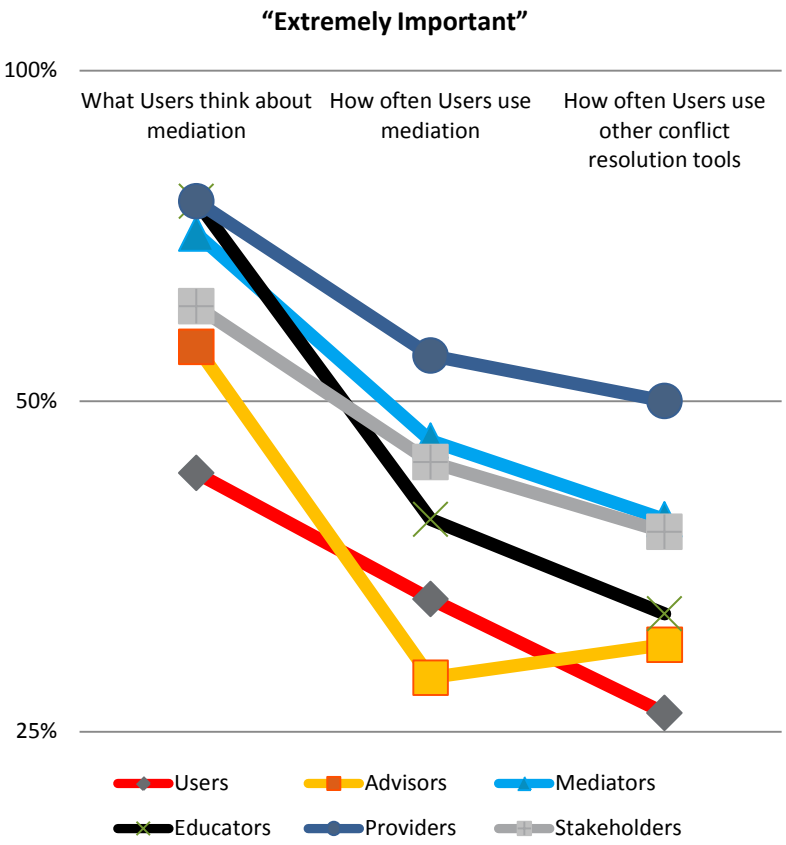
Contrasted to the above set of questions, regions varied in their responses as to which areas were most beneficial for an organization to be shepherding at this time:

- **Africa** and **Latin America** represent two of the youngest pools aged 45 and under (40% and 38%, respectively). "*Providing tools for Users*" was the most important area IMI could provide a benefit according to both Africa (58%) and Latin America (64%).
- **Europe** comprises a slightly older population (32% aged 45 and under). "*Setting high mediation standards that assure quality for users worldwide*" was the most important area IMI could provide a benefit according to this region (49%).
- **Australia/New Zealand** has the most senior populations (7% aged 45 and under). "*Influencing policy makers about promoting and using mediation and other forms of conflict management*" was the most important area IMI could provide a benefit according to this region (52%).
- **North America** comprises the largest (35%) and also more senior (11% aged 45 and under) respondent pool. "*Fostering measures that increase a common understanding of consensual dispute resolution processes in order to reduce the potential escalation of conflicts*" was the most important area IMI could provide a benefit according to this region (30%).
- **Asia** comprises the third youngest population (35% aged 45 and under). "*Setting high mediation standards that assure quality for users worldwide*" was also the most important area IMI could provide a benefit according to this region (49%).
- Respondents from the **Middle East** represented too small of a base (13 respondents) to identify reliable trends. Its population was also quite senior (30% aged 45 and under). "*Establishing a comprehensive code of professional conduct for certified mediators backed by a disciplinary process*" was the most important area IMI could provide a benefit according to these respondents (50%).

How important are User views on conflict management to Stakeholders? Q11

User views are extremely important.

- The majority of all stakeholders (with the exception of Users themselves), find user views on conflict management to be extremely important – even more so than mediator views, mediation processes and statistical data on mediation.
- With slightly less intensity, 72% of all stakeholders find knowing how often users actually use mediation to be "important" (with only a majority (53%) of providers finding this information to be "extremely important").
- A similar percentage of stakeholders (71%) find it "important" to know how often Users use other conflict resolution tools (though no majority of stakeholders found this data to be "extremely important").
- As representatives of users, advisors found it the least important to know how often users use mediation (28%) and only slightly more important than users as to how often users use other conflict resolution tools (30%).



- Regionally, user views are the single most important factor in Africa (77%), Europe (69%), Australia/NZ (68%) and North America (67%).
- Though also extremely important in Latin America (73%), the Middle East (69%), and Asia (57%), user views are not as important as mediator qualifications and experience in these jurisdictions.

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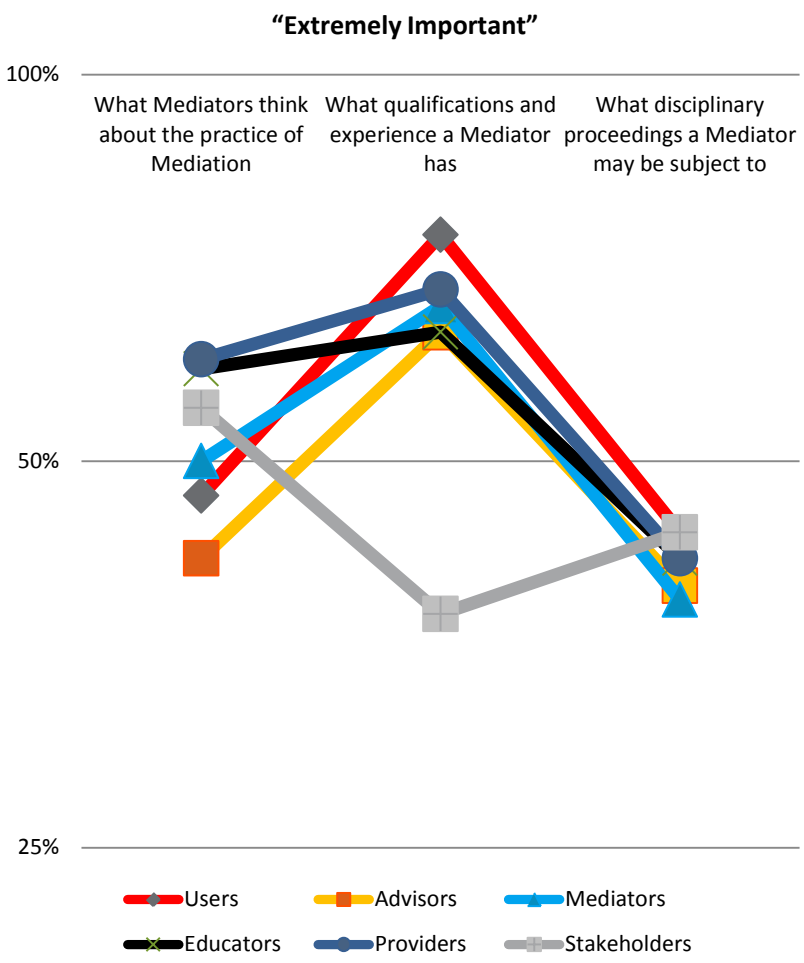
How important are Mediator views to Stakeholders? Q11

Mediator qualifications and experience most important to Users.

- The single most important factor (75%) for Users to know concerning their work in conflict management is what qualifications and experience a mediator has (compare to 63% of advisors, 68% of providers, 66% of mediators and 38% of other stakeholders such as government/ NGOs who feel the same level of importance).
- Knowing what disciplinary proceedings a mediator may be subject to is also of the highest importance to the user stakeholder group (44%), but it does not hold the majority level of importance for any stakeholder.
- Knowing what mediators think about their profession is of highest importance to providers (60%), educators (59%) and other stakeholders such as government/ NGOs (55%).



- Regionally, Latin America (79%), the Middle East (76%), and Asia (58%) find mediator qualifications and experience to be the most important consideration in conflict management. A majority of other jurisdictions also find mediator qualifications to be extremely important (North America 65%, Europe 63%, Africa 61%, Australia/NZ 60%), but not as important as user views.
- Mediator views are extremely important in Latin America (73%), Africa (63%), Australia/NZ (55%), the Middle East (53%) and Asia (53%), but do not hold a majority level of importance in Europe (48%) or North America (43%).
- Disciplinary proceedings for mediators is starkly more important in Latin America (64%), Africa (63%), and the Middle East (53%), than it is in North America (38%), Europe (37%), Australia/NZ (36%) or Asia (31%).

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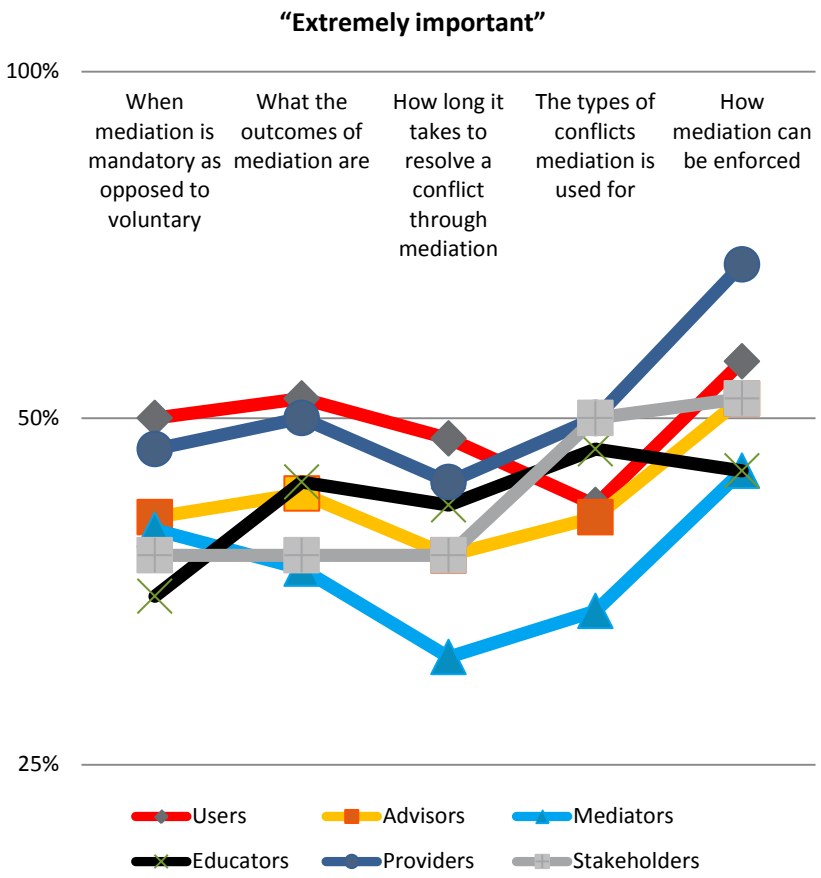
How important are mediation processes to Stakeholders?

Mediation process itself less important than User views.

- A majority of all stakeholders except mediators (45%) and educators (45%) stated that the enforcement of mediation outcomes was extremely important.
- Mediation outcomes held the largest extreme importance for users (52%), providers (50%) and students(50%).
- Users also placed the largest importance (50%) of all stakeholders on when mediations are mandatory as opposed to voluntary.
- There otherwise appears to be a disconnect between the relatively low level of importance of knowing certain process aspects of mediation as opposed to the high level of importance in knowing user views about mediation overall.
- Advisors and mediators in particular placed relatively less importance on what the outcomes of mediation are (advisors 43%; mediators 37%); how long it takes to resolve a conflict through mediation (advisors 38%, mediators 31%), or the types of conflicts mediation can be used for (advisors 41%, mediators 34%)) than other stakeholders.



- Regionally, enforcement of mediations holds the least level of extreme importance in North America (36%) and Australia/NZ (26%), compared to majority views in other regions.
- Mediation outcomes were also less important in Australia/NZ (21%), Asia (28%), North America (40%) and Europe (40%), than in the other regions.
- Though slightly more important overall, a similar trend existed amongst the regions with respect to how long it takes to resolve a conflict through mediation.

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How important is statistical data on mediation to Stakeholders?

Mediation statistics are most important to governments/ NGOs.

- Perhaps unsurprisingly, the greatest interest in knowing the number of mediations conducted in one's jurisdiction /region are government stakeholders (52%), with the largest regional interests in the Middle East* (53%), Latin America (46%), Africa (37%), and Europe (33%).

- Amongst the stakeholders, advisors attribute the least level of importance amongst the stakeholders to regional mediation data (26%).

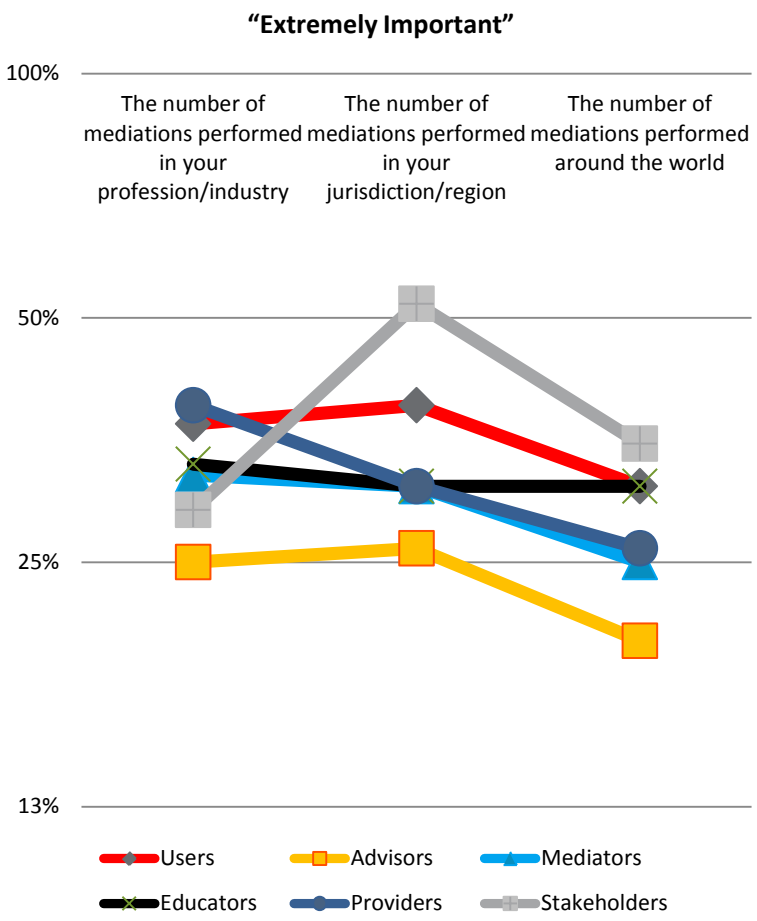
- Providers (39%) and users (37%) demonstrate the largest interest in knowing the number of mediations performed in their profession/ industry, but no stakeholder exhibited a majority interest in this type of information.

- Regionally, the Middle East* (61%), Latin America (48%), Africa (36%) and Europe (33%) also exhibited the greatest interest in this category.

- Global mediation data has the greatest interest amongst government/NGO stakeholders (35%), students (24%), users (31%) and educators (31%), but has the least level of interest to advisors (20%).

- Regionally, the Middle East* (46%), Latin America (39%), and Europe (30%) exhibited the largest interest in this category.

*small base



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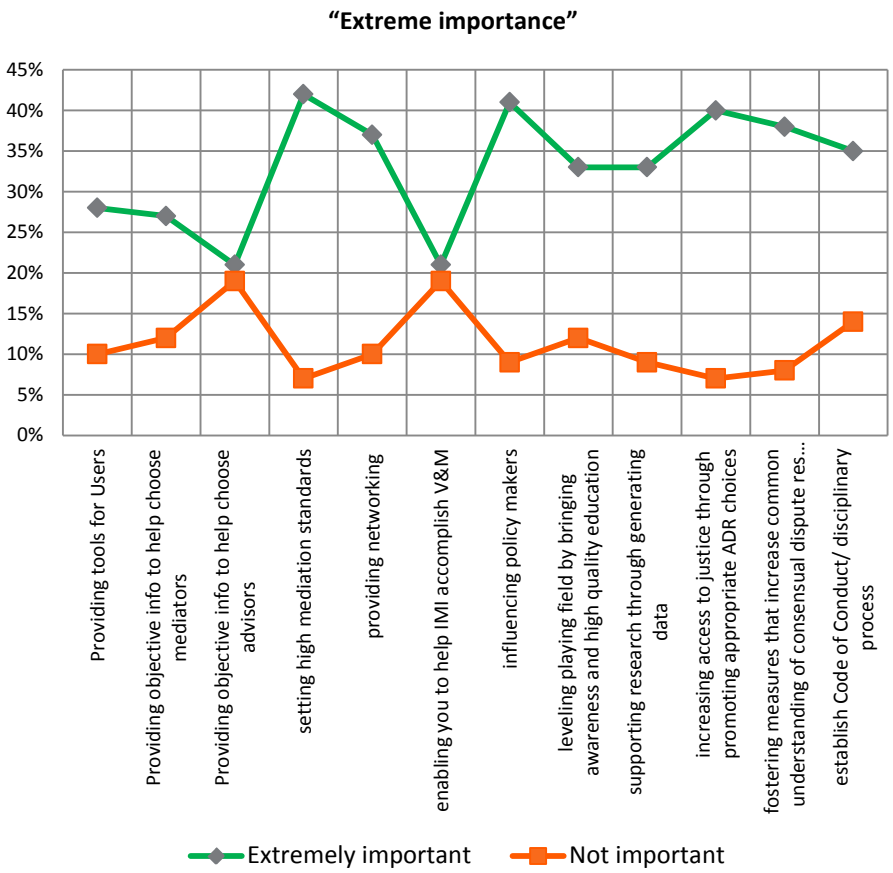
Areas of Importance in which IMI can provide a benefit Q44

"In order to assess areas of importance in mediation, respondents were asked which areas they deemed most beneficial for IMI to be shepherding":

- Overall, respondents found all mentioned categories to be important to a certain extent.
- Areas which respondents found to be of the highest importance for IMI were: setting high mediation standards that assure quality for users worldwide (42%), influencing policy makers about promoting and using mediation and other forms of conflict management and resolution (41%), increasing access to justice through promoting dispute resolution choices that are appropriate for the circumstance (40%), fostering measures that increase a common understanding of consensual dispute resolution processes in order to reduce potential escalation of conflicts (38%), providing networking opportunities (37%), and establishing a comprehensive code of professional conduct for certified mediators backed by a disciplinary process (35%).
- Areas scoring the lowest in importance (i.e., "not important at all") where enabling IMI to accomplish its Mission & Vision (19%), providing objective information to help choose advisors (19%), and establishing a code of conduct (14%).
- Regionally, the most important area for **Africa** (58%) and **Latin America** (64%) was providing tools for Users.
- The most important area for **Asia** (49%) and **Europe** (49%) was setting high mediation standards that assure quality for users worldwide.
- The most important area for **Australia/ NZ** (52%) was influencing policy makers
- The most important area for **North America** (30%) and the **Middle East** (50%) was fostering measures that increase a common understanding of consensual dispute resolution processes in order to reduce the potential escalation of conflicts.
- In addition to the above, the other most important area for the **Middle East** (50%)* was establishing a comprehensive code of professional conduct for certified mediators backed by a disciplinary process.



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CHAPTER 4

MEDIATOR'S ROLE/FEATURES/OVERVIEW

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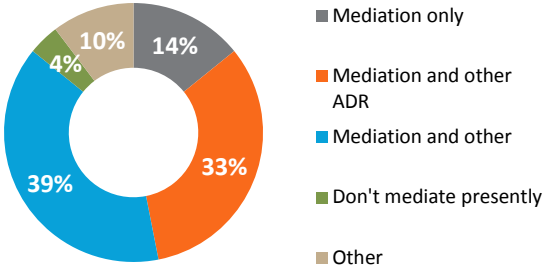
The study results reflect the dependence on mediators for process decisions and the integrity of the sessions. Given that mediation is mostly unstructured and tailored to the individual needs of the mediating parties, the mediator is often instrumental in shaping the process, and potentially the outcome, of the mediation. For this reason, the survey endeavored to gain more insight into the professional backgrounds of mediators.

Overall, it appears that those involved in mediation do so alongside another profession, predominantly a legal one. The responses to Q25 might suggest that a reason for this is the typically low remuneration for mediation work. In relation to IMI, respondents suggested that they would like it to take a more active role in the promotion and support of mediation. Remuneration levels juxtaposed against interest in mediation suggest that engagement may in many cases be altruistic.

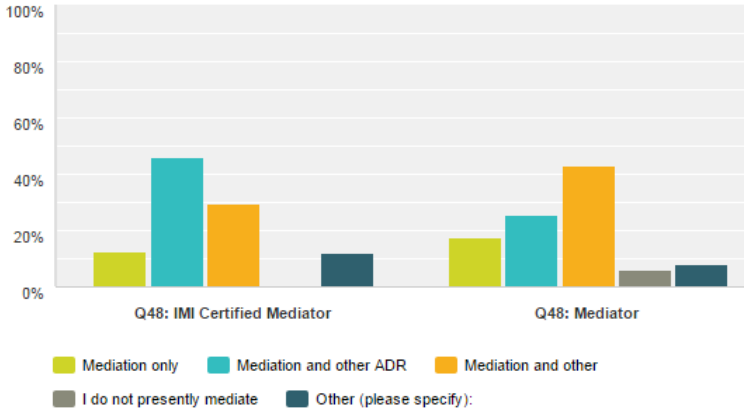
What proportion does mediation play as part of a mediator's overall practice? (Q24)

"Respondents were asked whether mediation was their primary profession or whether they also performed other services".

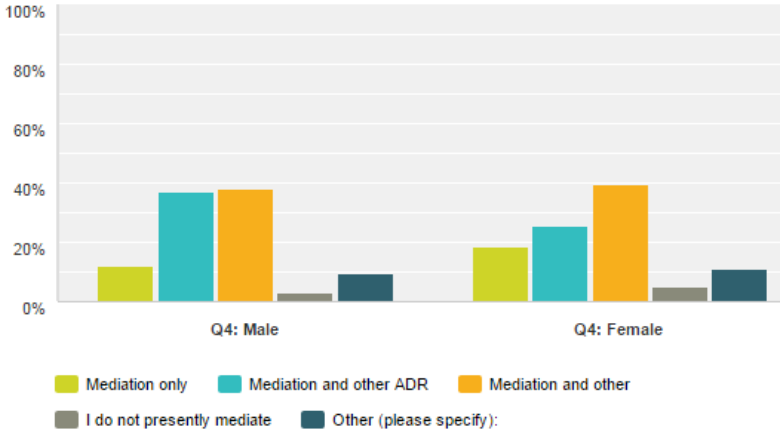
- Approximately 70% of the total respondents engaged in some other profession as well as mediation, with almost 50% of those respondents engaging in some other form of ADR.
- This trend was more pronounced for males, with females more likely to pursue careers outside of the ADR field.
- It is interesting to note that of those respondents who specified the "other service" they performed in addition to mediation, 35% said they practiced law; which was the most prevalent "other" service.
- This would suggest that it is not uncommon practice for mediators to use their mediation skills within the scope of their legal practice.
- Moreover, IMI certified mediators were much more likely to remain within the ADR field than any other demographic.



IMI Certified Mediators more likely to remain within ADR field



Women more likely to seek work outside of ADR field



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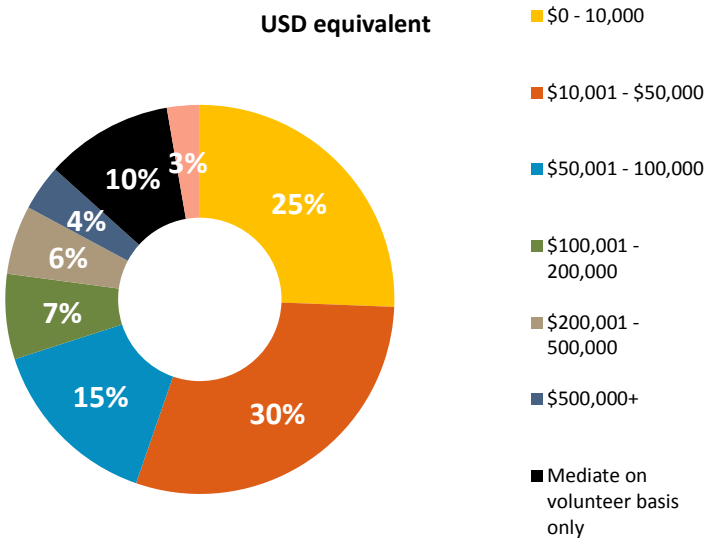
How much income is generated based solely on performing mediator services? Q25

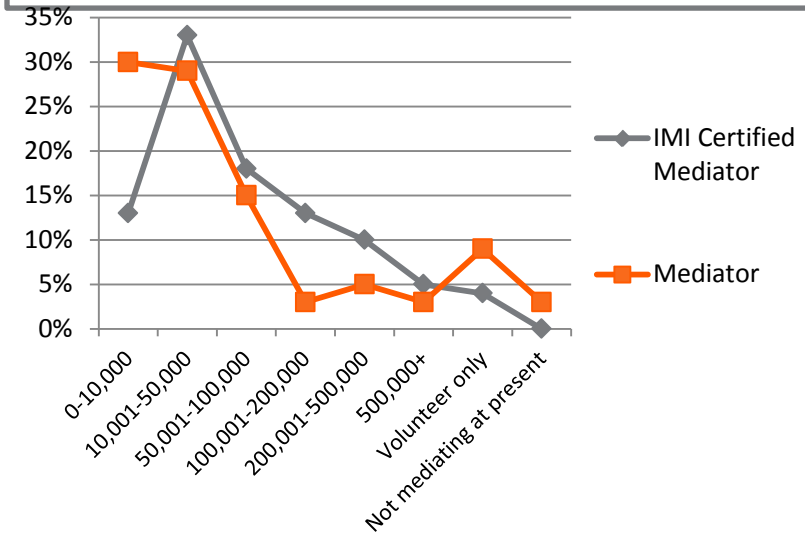
The responses to this question help to shed light on the trend noticed in the previous question.

When asked about how much income was earned solely from mediation…"

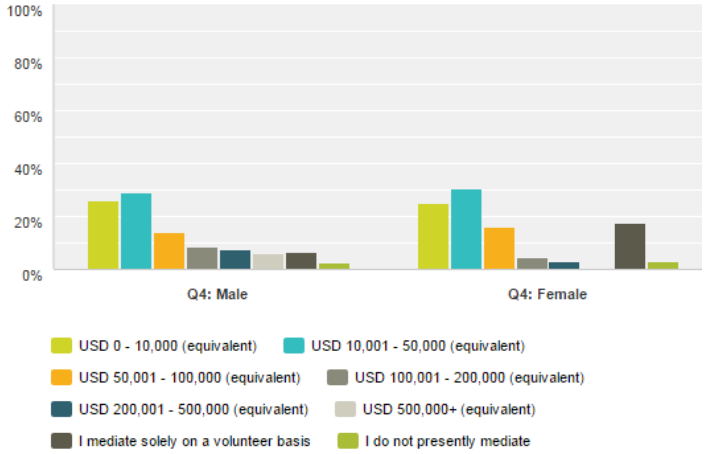
- More than half the respondents answered that they earned less than $50,000 USD equivalent a year, and of those half earned less than $10,000 USD equivalent a year for their mediation services.
- By way of comparison, in 2014 the Organisation for Economic Cooperation and Development (OECD) found that the average yearly wage of member countries was $44,982 USD.
- This may explain why approximately 70% of the total respondents to the previous question stated that they engaged in some other profession, as it appears from the data that most mediators do not earn a sufficient income from their mediation work alone.
- It is worth highlighting also that approximately 10% of respondents undertook mediation on a purely voluntary basis.



IMI Certified Mediators generally earn more than non-certified mediators



Women more likely to seek work on volunteer basis



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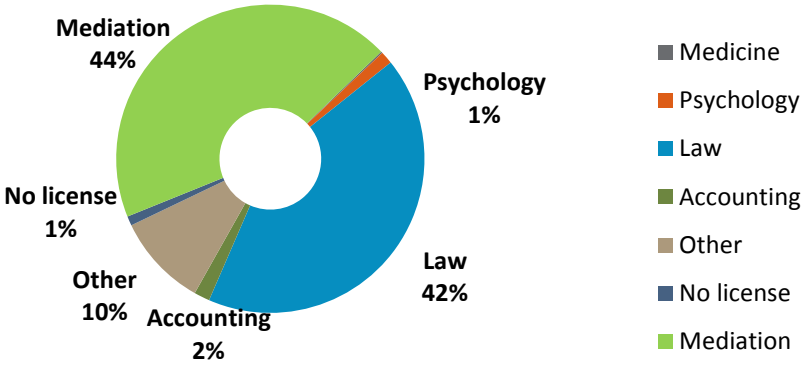
What form of professional license/certification does the mediator hold? Q26

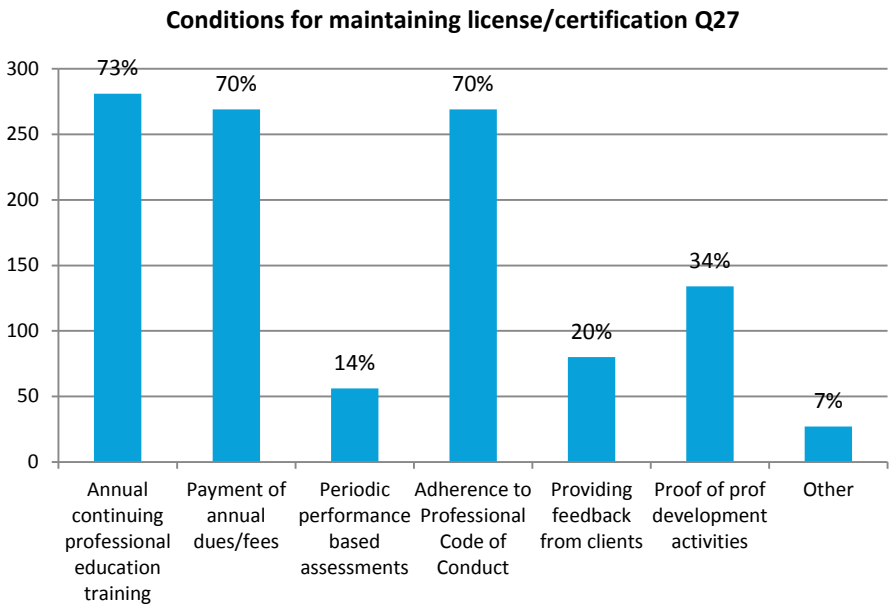
"In order to understand the qualifications of the respondents they were asked about their professional certification and licensing." There was a clear trend between certification in law and mediation (almost 86% of respondents answered that they were certified in both law and/or mediation), and this would seem to corroborate the previous data from Q24, with approximately two thirds of respondents have some form of professional license or certification in these fields.



Of those respondents who had some form of professional licensing or certification, the most prevalent were:

- Annual continuing professional education training (73%)
- Payment of annual dues/fees (70%)
- Adherence to a professional Code of Conduct (70%)

It is noteworthy that the next most prevalent response, proof of professional development activities, was a big decrease from these responses, being 34% of respondents.



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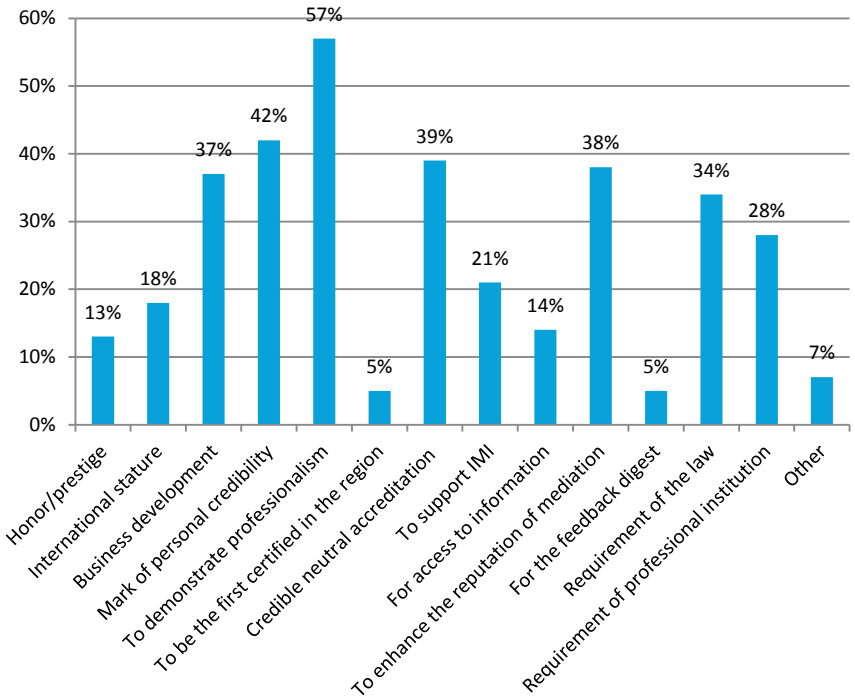
Reasons for seeking license/certification Q28

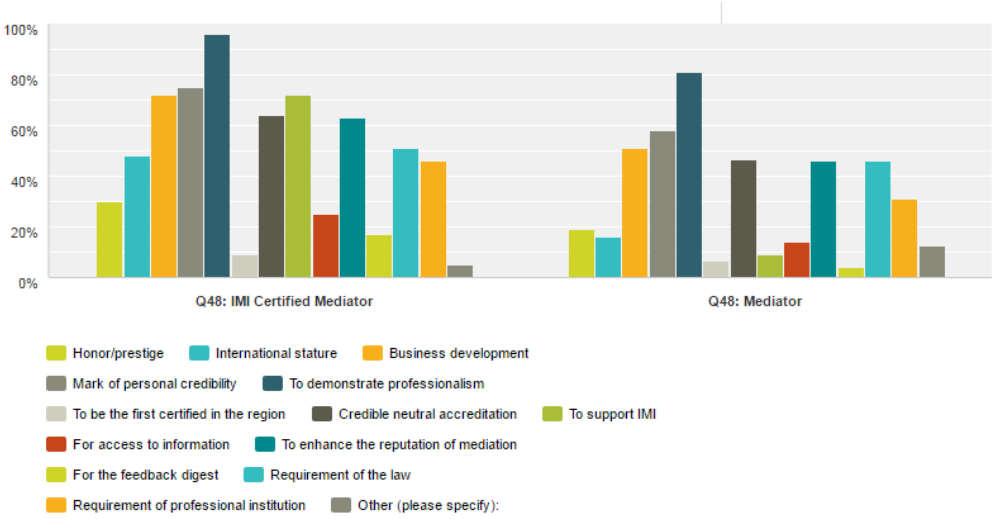
When responding to 'why' the respondents chose to acquire such professional license/ certification:

- The most common response, of which 57% of respondents selected, was to demonstrate professionalism
- The next most prevalent responses were to signify personal credibility (42%), and also credibility for mediation itself (39%).

These responses suggest that the primary concern of respondents who acquire professional licensing or certification is to establish a sense of confidence in both themselves, and mediation, amongst stakeholders.



For those who seek IMI certification in particular, even more emphasis is placed on demonstrating professionalism (96%) , business development (72%), and to signify personal credibility (75%), with an additional emphasis on enhancing the reputation of mediation (63%) and supporting the IMI mission generally (72%). For this demographic, obtaining an international stature (48%) was also significantly more relevant than other demographics.

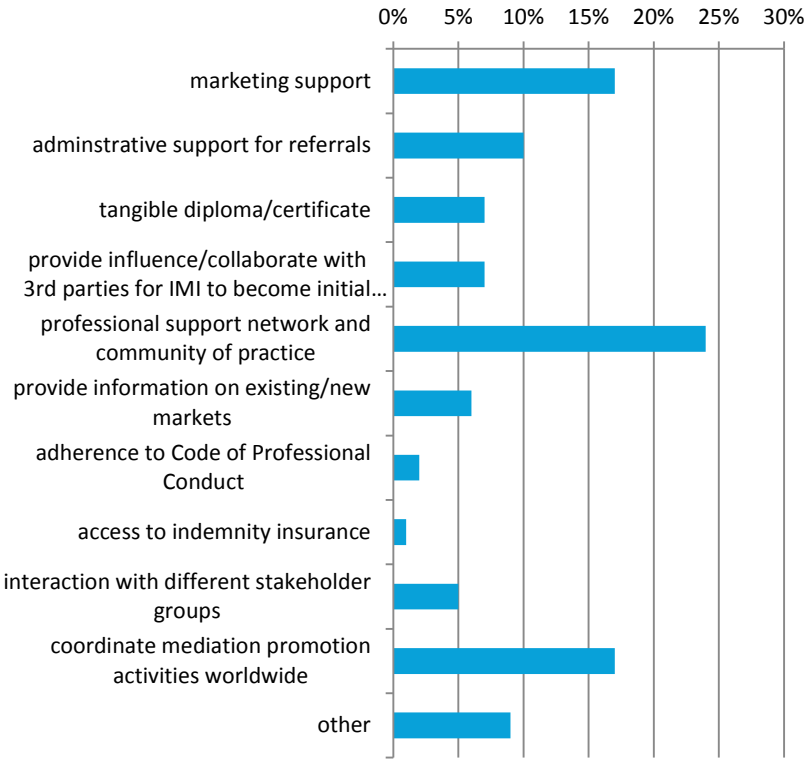


What areas are favored to assist with business development? Q29

Questions were asked of mediators about the type of support they valued in their profession. Though asked in the context of IMI, the responses appear to reflect general areas of attention which mediators would value in promoting the continued growth of the profession overall:

- On the basis of the responses to this question it is apparent that a commonly held desire is to provide support to the mediation community, with over 50% of respondents calling for some sort of support service.
- Specifically, respondents thought this support could take the form of providing a professional support network and community of practice (approximately 25% of respondents), marketing support (approx. 18% of respondents), and the coordination of worldwide promotional activities (approx. 17% of respondents)
- Some less commonly provided responses included providing administrative support for referrals (10%), providing some form of tangible diploma or certification (8%) and becoming the initial mediation contact amongst stakeholders (8%).

On the basis of the responses it is clear that respondents would like an organization to adopt the role of an "umbrella organization" in coordinating international awareness for mediation, and also facilitating a network of mediation providers.



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CHAPTER 5

GROWING MEDIATION

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Analysis of survey results in this Chapter related to those in the Education, Government, and ADR Training Provider sectors. Those surveyed in the Education sector have a strong demand for more coursework relating to mediation. Conversely, those in the Government sector, especially those in the legislative and executive branches of government, while being vaguely familiar with mediation, don't seem to put the same weight to the importance of mediation. Even the judicial branch is seen by the respondents to recommend mediation as a time and resource management tool. Are Judges themselves of the opinion that mediation should only be used to clear their docket? Or do they firmly and genuinely believe that mediation can help parties in a dispute save time, money *and* also obtain judicial economy for the court system?

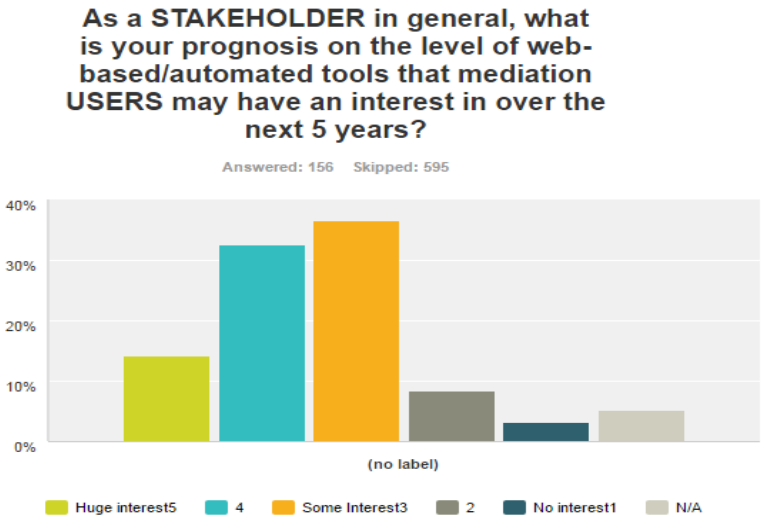
Despite the strong predictable increase in mediation training in the next five years, respondents desire mediation training criteria and qualifications to become more standardized.

With respect to web-based tools, despite favorable responses to the idea of having such automated tools for mediation, respondents conveyed a sense of reluctance. Many commented on the importance of face-to-face and in-person communication, overcoming language and interpersonal communication barriers, and other characteristics so essential to mediation such as hand and facial gestures, communication tone, and body language.

What is the prognosis on the level of web-based/automated tools that mediation users may be interested in over the next 5 years? Q37

Hesitation about automating mediation.

- 83% of respondents indicated that there would be at least some interest in web based/ automated tools in the next five years. The greatest interest came from Asia (80%), Africa (62%), Europe (49%), Latin America (46%), and North America (36%). Yet comments were hesitant:
- **Asia**: *"In India, in general, face to face interactions are always much more preferred over online ones, hence, web-based mediation, at the moment, does not seem to have much significance."*
- **Africa**: *"Not yet popularised."*
- **Europe**: *"I'm not sure about automated tools even if some encouraging experience exists in Canada, but I'm convinced that we will see soon mediations through secured Conference calls." "Web based mediation will become an important platform for consumer mediation."*
- **Latin America**: *"The problem is that they don't speak other languages and that makes their spectre so short."*
- **North America**: *"Unfortunately, it appears this will be driven from the parties instead of the mediators themselves. But it will happen and 'real soon now'". "Power imbalance issues won't be adequately addressed with automated tools. Their interest will be high, but it will only serve to allow them another opportunity to hide and avoid the issues of interpersonal communication* and resolution." *"Interested… but feel an automated tool will not ever pick up on the nuances of tone of voice, and body language that assist a good mediator in being present with the parties in the dispute."*
- **Australia/NZ**: *"Blatantly discourage and reject… These seductive tools and emissions distort and disguise the authentic face to face, hand in hand social interactions that share a common time and place together…"*



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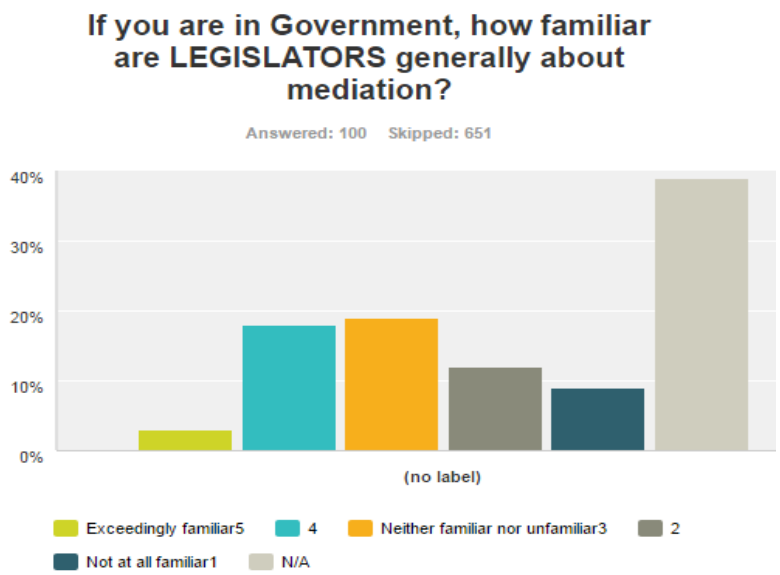
How familiar are legislators generally about mediation? Q31

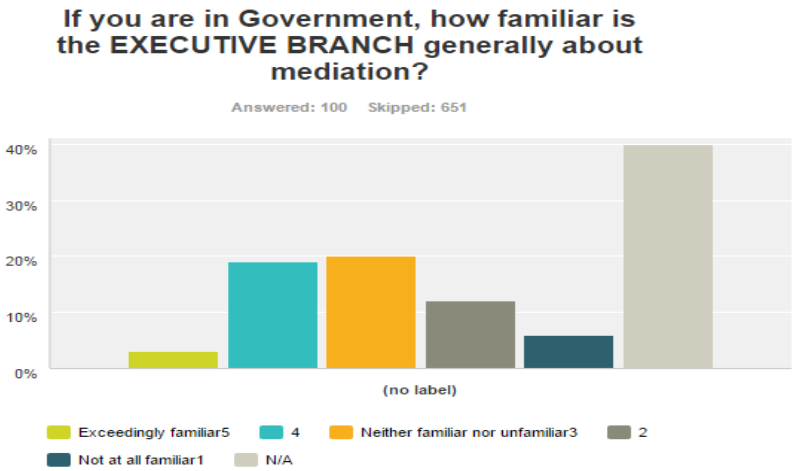
The Government Sector were asked about their views as between various branches of government:

- Legislators. Overall, only 17% of respondents stated that legislators had any familiarity at all with mediation, with the greatest level of familiarity appearing to come from Asia (40%), Australia/NZ (20%), Africa (27%), Latin America (15%), North America (13%) and Europe (11%).
- **Australia/NZ**: *"Through the last decade in particular…legislators are muting mediation being discouraged as less lucrative or more profitable with civil litigation and established arbitration."*
- **Europe**: *"Legislators are not paying any special attention to mediation from the fear that mediation cannot create sustainable income."*
- **Africa**: *"Our legislators are completely ignorant of mediation." "The Labour Relations Act is creating awareness"*
- **Latin America**: *"Congressmen are not really interested at all."*
- **North America**: *"They have heard of it"*



How familiar is the executive branch generally about mediation? Q34

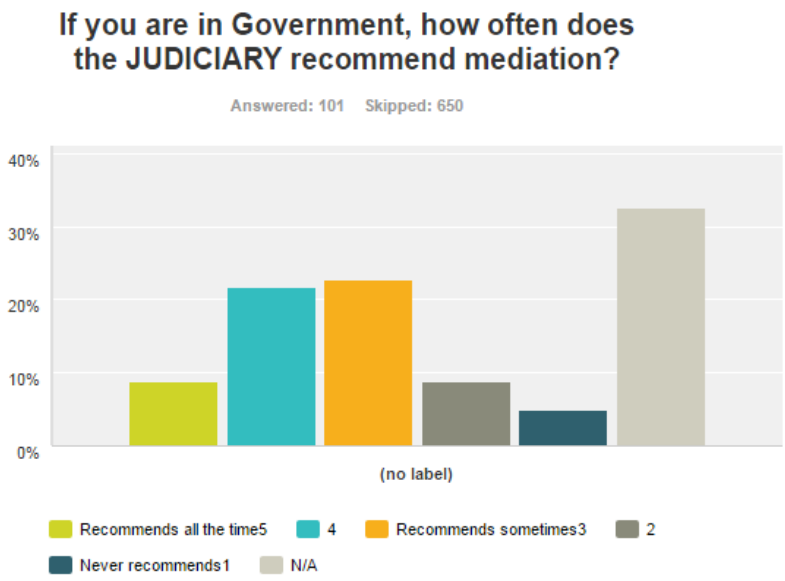
- Executive branch. Overall, only 18% of respondents stated that the Executive Branch has any familiarity at all with mediation. Australia/NZ (40%), Africa (36%), Asia (35%), North America (17%) and Latin America (15%) had the highest level of familiarity.
- **Latin America**: *"Executive branch is interested but the problem is the bord try to copy other countries without taking their own culture."*
- **Africa**: *"They don't care, they need education."*
- **Australia/NZ**: *"Executive department is largely composed of lawyers and communications backgrounds thus the term is familiar and often inconsequential."*
- **Europe**: *"They are familiar, but not much on quality of the process more about results, number of mediated cases." "Lack of knowledge and mediation/ adr culture."*
- **North America**: *"Used by agencies, provided as a tool for dispute resolution, train their lawyers and staff in either or both mediation and negotiation."*



How often does the judiciary recommend mediation? Q35

Judicial branch most active.

- While only 8.7% of respondents stated that judges recommend mediation *all* of the time, 41% of respondents believe that judges recommend mediation most or some of the time.
- The highest proportion of judicial recommendations came from Asia (74%), Africa* (75%), Australia/NZ (60%), North America (46%), Latin America (45%), and Europe (41%).
- **Asia**: *"A procedural step in court/other proceedings"*
- **Australia/NZ:** *"Judiciary departments might recommend frequently from position of overloaded schedules for family affairs or commercial relations. While others are more optimistic and experienced with small claims for same relationship purposes and cost issues."* *"Unfortunately, many of my colleagues have not experienced mediation as a participant or mediator and are unfamiliar with its scope and benefits."*
- **North America**: *"Time and resource management tool, directive to more appropriate process than litigation."* *"Judges live in an adversarial environment and are comfortable with positional bargaining. Education is required for judges to appreciate other ways to manage disputes besides the litigation status quo."*
- **Europe**: *"Due to lack of proper knowledge about mediation and due to its voluntary nature."*
- **Africa**: *"Judges actually refer cases in their courst to the LMDC for mediation although the referrals could be better in terms of numbers. Walk-in cases are presently more than court referred cases."* *"[Mediation not] introduced enough. This is partially due to ignorance on the subject and disposition of leadership at the time."*



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What is the level of interest in Student Bodies in mediation? Q31

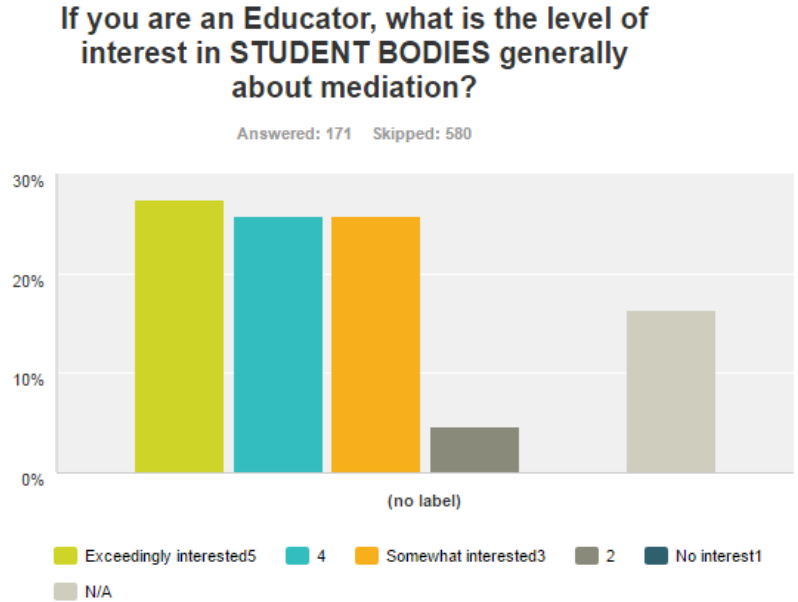
Educators perceive large student interest in mediation.

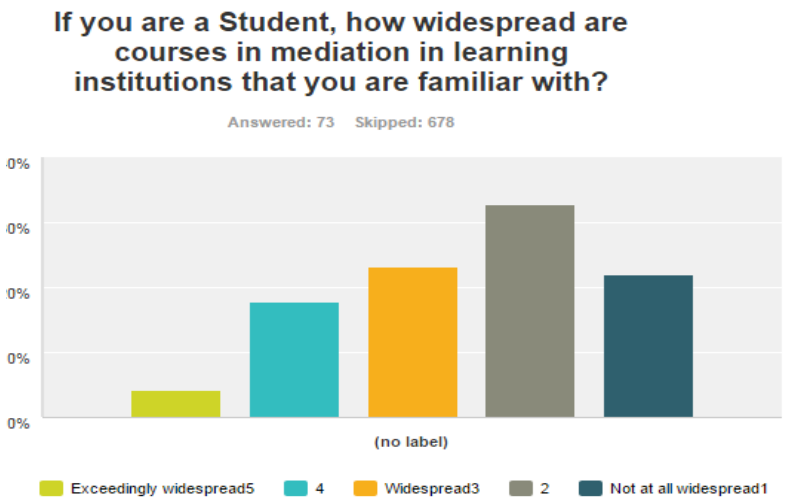
- 53% of educators responding believe that their student bodies are either interested or exceedingly interested in mediation.
- Regionally, the largest level of interest is in Europe (40%), Africa (35%) and North America (32%).
- The least level of student interest is in the Middle East* (0), Australia/NZ (14%) and Asia (16%).
- **Africa**: *"A great deal of awareness creation is needed."*
- **Europe**: *"Universities should be interested however it is mostly treated as a hobby of a specific person and once that person leaves… the topic is removed from the curriculum. All our efforts to start a master study…have failed so far."*
- **North America**: *"Courses are full." "Small group of law students intensely interested; others are ignorant until they practice; some intense interest among undergraduate and graduate students in other fields."*
- **Asia**: *"Students' interest in mediation seems to be increasing over the past few years."*

How widespread are courses in mediation? Q32

Course offerings are rare.

- Students (54%) generally show disappointment in the fact that course offerings are either rare or only offered as a secondary course related to the more primary course on arbitration.
- Regionally, while only a small percentage of students in Australia/NZ (33%), Latin America* (7%) and Europe (5%) stated that courses were exceedingly widespread, the majority state it is not widespread at all (Europe 56%; Asia 44%, Latin America 56%).
- **Asia**: *"Mediation has gradually made inroads but its spread is restricted only to few law schools."*
- **Africa**: *"Poorly run and usually on the back of arbitration. Theoretical."*
- **Europe**: *"School programs should be revised at all educational levels."*
- **North America**: *"Widespread isn't the issue. Quality and focus are the challenges."*
- **Australia/NZ**: *"Many institutes and programs adopt or disguise the skills and theories once boldly transparent within other programs like commercial relations or public administration."*





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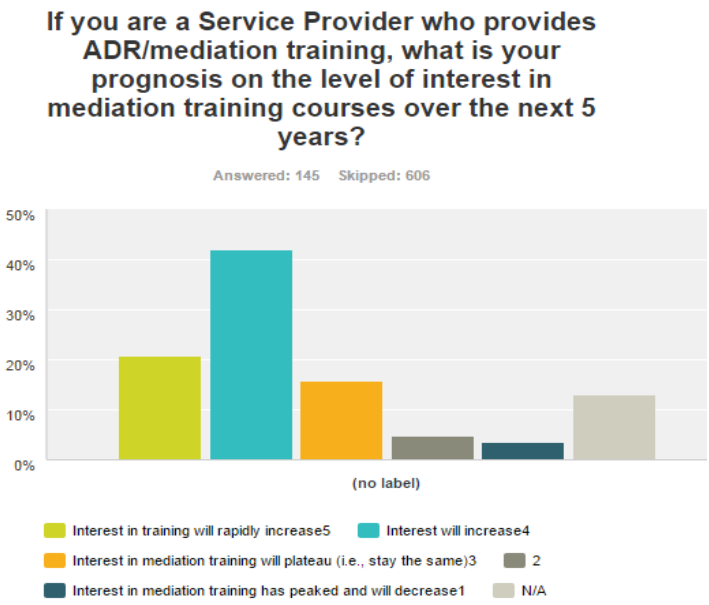
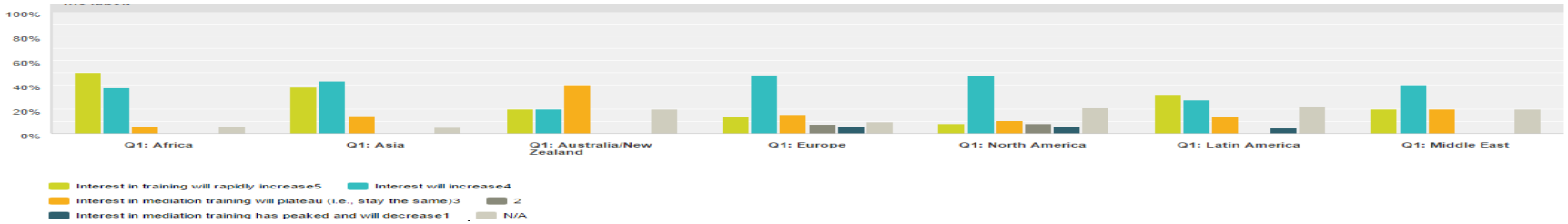
What is the prognosis on the level of interest in mediation training courses over the next 5 years? Q36

Interest in training courses set to increase.

- 63% of respondents believe that the level of interest in mediation training courses will increase over the next 5 years – 21% believe it will increase rapidly.
- Regionally, the quickest expected growth is in Africa (50%), Asia (38%), Latin America (31%), and the Middle East* (20%). Australia/NZ respondents felt that interest is set to plateau (40%).
- **Africa**: *"People are now about opportunities in building a career in mediation and the cost and time savings mediation provides." "But not discerning as to quality of that training."*
- **Asia**: *"Many law and management students, lawyers, judges and other interested participants have all shown increasing interest in understanding theory and practice of mediation. Demand for mediation's growth… is going to register a significant growth in India in coming years."*
- **North America**: *"Interest will increase – but in which form of mediation? Empowering individuals to resolve, or morphing into a diluted legal process?" "It will increase rapidly in some sectors, for example where changes in the justice system require systemic retooling, or where workplace legislation forces training."*
- **Europe**: *"Competition between training institutes is strong as hardly any criteria are set." "Interest will inevitably decrease if no or few mediations are conducted. Unless there is legislative support, mediation will not be able to become publicly known." "The interest should be focussed on quality and advanced education."*
- **Australia/NZ**: *"Considering demographic trends, transitions and intercultural difference, it is the solution." "I think we have had our peak." "Strong interest now.. Won't plateau for some time."*
- **Latin America**: *"I would love that the interest in training mediators increase more in business."*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