ADR AS A TOOL TO REDUCE JUDICIAL BACKLOG IN INDIA

by

Justeena K Joseph

Abstract:

The convergence of technological advancement and legal development is shaping a future in which justice becomes more accessible, efficient, and effective. As the backlog of cases in the Indian judiciary continues to grow, many individuals face challenges in accessing justice promptly. Such delays can compromise legal rights and reflect the principle that "justice delayed is justice denied." In response to these issues, Alternative Dispute Resolution (ADR) has emerged as a practical strategy for resolving disputes before they escalate to court. ADR includes various methods such as arbitration, mediation, conciliation, and negotiation, all of which offer parties quicker, cost-effective, and amicable avenues for resolution. This paper evaluates the effectiveness of ADR in reducing the pressure on the formal judicial system. It draws on empirical data, case studies, and insights from different jurisdictions to critically examine the benefits and limitations of ADR practices. The study concludes with well-founded recommendations for reforms, highlighting that, with the right support, ADR can enhance the justice delivery system in India, making it more accessible, effective, and humane.

Keywords: Justice Accessibility, Case Backlog, Dispute Resolution, Legal Efficiency, Arbitration, Mediation

Indian Journal of Contemporary Legal and Social Issues

I. Introduction

Alternate Dispute Resolution (ADR) encompasses a variety of mechanisms, including mediation, negotiation, conciliation, and arbitration, aimed at resolving disputes between parties outside the formal court adjudication process. These mechanisms serve as alternatives to traditional litigation strategies and are widely adopted globally for dispute resolution. ADR methods offer numerous advantages to the parties involved, as well as to any relevant stakeholders. These benefits include reduced costs compared to litigation through the adversarial system, expedited resolution of disputes, avoidance of complex court procedures and extensive paperwork, as well as the potential to preserve relationships between the parties and maintain confidentiality regarding the issues at hand. Given the substantial benefits associated with ADR, judicial officers are encouraged to advocate for its utilisation, particularly at the initial stages of court proceedings, where many underprivileged individuals seek access to justice.

Among the various mechanisms for Alternate Dispute Resolution (ADR), arbitration is increasingly gaining prominence. In the past two decades, countries around the world have adopted specific legislation to govern the arbitration process.[1] The Indian government has also acknowledged ADR as an effective means of resolving disputes and has implemented public legislation to facilitate arbitration. Additionally, the Indian Civil Procedure Code offers parties the option to reach an out-of-court settlement and engage with ADR mechanisms for dispute resolution.

While ADR serves as an equitable tool that can efficiently resolve disputes on an individual basis, it is important to note that it does not establish binding legal precedents or promote the continuous application of established legal principles. Consequently, ADR cannot fully replace the formal judicial processes upheld by the courts. However, it can play a vital role in addressing the issue of pending cases within the judiciary, provided it is supported by appropriate mechanisms across the country.

Indian Journal of Contemporary Legal and Social Issues

[1] Amit Singh and Praveen Singh Chauhan, "Bridging Justice Paradigms: Lok Adalat and ADR Mechanism , International Journal of Criminal, Common and Statutory Law" 146 (2024)

II. Overview of the ADR mechanism

Alternative Dispute Resolution (ADR) Methods

1. Mediation: Mediation is the process in which a neutral third party facilitates a negotiated agreement between the disputing parties. The mediator does not have decision-making authority but helps guide the conversation to reach a mutually acceptable solution.

2. Arbitration: Arbitration is a procedure where a dispute is submitted to one or more arbitrators agreed upon by the parties involved. The arbitrators listen to the arguments and evidence presented and make a binding decision regarding the dispute.

3. Conciliation: Conciliation is an out-of-court dispute resolution method that is voluntary, flexible, confidential, and focuses on the interests of the parties. A conciliator helps the parties communicate and reach a consensus.

4. Negotiation: Negotiation is the primary method of dispute resolution, usually attempted first when conflicts arise. It involves the parties meeting to discuss and settle their differences without the involvement of third parties.

5. Lok Adalat: Lok Adalat is a forum for settling disputes in a harmonious, amicable manner. It serves as an alternative dispute resolution mechanism for cases that are pending in court or at the pre-litigation stage.[2]

III. Role of ADR in reducing case load

Indian Journal of Contemporary Legal and Social Issues

The Indian judicial system is currently facing a significant backlog of cases, which results in delays in the delivery of justice. Alternative Dispute Resolution (ADR) methods are instrumental in alleviating this burden by providing faster and more efficient alternatives to traditional litigation. This reduction in backlog not only benefits the involved parties but also enhances the overall effectiveness of the legal system.

As of 2025, India's courts are confronted with a pressing crisis, hosting over five crore pending cases across all levels—a number that has escalated sharply in recent years.[3] This backlog leads to delays in achieving justice, often spanning years, which erodes public trust

[2] Shashwat Gupta, Effectiveness of ADR in Reducing Judicial Backlog in India, International Journal for Multidisciplinary Research (IJFMR), 2 (2025)
[3] Id. at 3

and strains the entire legal framework. In this context, ADR, which encompasses arbitration, mediation, conciliation, negotiation, and Lok Adalat, has emerged as a pivotal mechanism for easing the congestion in regular courts.

ADR approaches allow individuals to resolve disputes more swiftly, at lower costs, and in a collaborative environment. A remarkable instance of this effectiveness is seen in the Lok Adalat, which, in 2023 alone, achieved remarkable success by settling over 1.17 crore disputes during just the fourth National Lok Adalat of the year, showcasing its role in alleviating the courts' workload.

According to the World Bank's 2020 Ease of Doing Business Report, enforcing a contract through Indian courts takes an average of 1,445 days, underscoring the inefficiency of traditional litigation processes in India. The formal judiciary is overwhelmed, with data from the National Judicial Data Grid (NJDG) indicating that over 40 million cases are pending in Indian courts as of 2023[4]. A significant portion of these cases has been outstanding for over five years, making timely justice nearly unattainable. Such delays undermine public confidence and can render the pursuit of justice futile, especially when litigants face protracted waiting periods for resolution.

Lok Adalat provides a practical solution by addressing cases that can be resolved through compromise and mutual agreement. One of its key advantages lies in addressing disputes at the pre-litigation stage, preventing an influx of new cases into an already burdened court system. Additionally, for cases currently undergoing litigation, Lok Adalat offers a platform for settlement, effectively relieving the courts of extra cases and significantly diminishing the backlog.

Indian Journal of Contemporary Legal and Social Issues

By promoting compromise-based resolutions, Lok Adalat facilitates quicker case processing, which encompasses civil disputes, family matters, and minor criminal offences. This not only accelerates the resolution of disputes but also helps lighten the load on the courts, enabling them to concentrate on more complex legal issues that necessitate judicial oversight.[5]

Consequently, Lok Adalat has become an essential tool in reducing the judicial backlog and providing a practical, efficient, and amicable method for resolving disputes.

[4] "Process Reforms: Enabling Decision-Making Under Uncertainity", Economic Survey 2020-21, Volume 1, 194

[5] Supra note 1 at 150

IV. Laws Related to ADR in India

In the Civil Procedure Code of 1908, Section 89, along with Rules 1-A to 1-C of Order 10, outlines the provisions for dispute settlement. These provisions were introduced by the amendment to the Code of Civil Procedure (CPC) in 1999, following recommendations from the Law Commission of India and the Malimath Committee.

Section 89 emphasises resolving disputes outside of the courtroom, encouraging a more amicable approach to conflict resolution. The Law Commission suggested that judges have the authority to require parties involved in a suit or proceeding to appear in person, fostering opportunities for a cordial settlement. Additionally, the Malimath Committee highlighted the importance of directing disputes towards Alternative Dispute Resolution (ADR) methods rather than pursuing traditional litigation, thereby promoting a more flexible and collaborative resolution of conflicts. [6]

This approach reflects a significant evolution in the legal framework of India, promoting a more holistic and practical way of addressing disputes.

V. Constitutional Backing

Article 39A of the Indian Constitution stipulates that the state is obligated to ensure that justice is accessible to all individuals, not solely to those who can afford legal representation. This article mandates the government to provide free legal aid and to establish a legal system that guarantees equal opportunity, ensuring that no one is denied justice due to financial or social obstacles. This constitutional commitment has resulted in the development of laws and schemes that promote alternative dispute resolution (ADR) and enhance access to justice, particularly for those who are most in need.[7]

Indian Journal of Contemporary Legal and Social Issues

VI. Arbitration and Conciliation Act, 1996

The Arbitration and Conciliation Act of 1996 was developed in alignment with the UNCITRAL Model Law on International Commercial Arbitration from 1985 and the UNCITRAL Conciliation Rules established in 1980. The United Nations General Assembly has encouraged countries to adopt the principles laid out in this Model Law to address

[6] Rahul Kumar & Priyanshu Kumar Tripathy, Future of ADR in India: "Alternative" To "Appropriate" Dispute Resolution, Indian Journal Of Integrated Research In Law(IJIRL), 8

[7] Upadhyay, Vijay, "Free Legal Aid under Article 39A of the Indian Constitution: Its Scope and Dimensions," Indian Law Journal, Vol. 6, Issue 2, 2023, pp. 102-110

inconsistencies in arbitration laws and procedures, particularly emphasising the need to align with international commercial practices.

The Assembly also advocated for the adoption of these regulations in instances of disputes arising from international business relations, where parties may seek amicable resolutions through conciliation and arbitration. These frameworks are vital for creating a cohesive legal mechanism aimed at ensuring the just, fair, rapid, flexible, and effective resolution of conflicts emerging in international commerce.[8]

Following the enactment of the 1996 Act, the Law Commission of India conducted a review and proposed several amendments. This led to the introduction of the Arbitration and Conciliation (Amendment) Bill, 2003, in Parliament, which aimed to incorporate the commission's recommendations. However, the Standing Committee on Law expressed concerns over excessive court intervention in various provisions of the bill.

The Supreme Court's decision in Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc[9]. (BALCO) made it clear that parties in international commercial arbitration have the freedom to choose where and how their disputes are resolved. The Court affirmed party autonomy and strictly limited the role of Indian courts in foreign-seated arbitrations, making sure that the process is less likely to be interrupted by judicial interference and more in line with global arbitration standards.

Primarily, the Arbitration and Conciliation Act, 1996, was oriented towards domestic arbitration, with significant amendments implemented in 2015 and additional modifications in 2019 to enhance its effectiveness and adaptability. The Arbitration and Conciliation Act of 1996 was modelled on the UNCITRAL Model Law on International Commercial Arbitration (1985) and the UNCITRAL Conciliation Rules (1980). The UN General Assembly encouraged states to adopt this Model Law to resolve inconsistencies in arbitration practices and enhance international commercial relations.

VII. In the India Arbitration Act, 1899

The first India Arbitration Act was enacted on July 1, 1899. It was primarily based on the British Arbitration Act of 1899 and was applicable only in the presidency towns of Calcutta, Bombay, and Madras. A notable feature of this Act was that the names of the arbitrators were

[8] Ibid at 9
[9] Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc., (2012) 9 SCC 552

Indian Journal of Contemporary Legal and Social Issues

required to be specified in the contract, allowing for the possibility that an arbitrator could also be a sitting judge, as established in the case of Nusserwanjee and Ors. v. Meermynooden Khan Wuleed Meer Sudrooden Khan Bahador.[10][11] In the case of Gojendra Singh v. Burg[12], it was determined that an award given in arbitration is essentially a form of agreement between the parties. Additionally, in the case of Binkurrai Lakshami Prasad v. Gaswant Rai Prasad[13], the honourable high court characterised the 1899 Act as complicated and bulky, indicating the need for urgent reforms.

Juggilal Kamlapat v. General Fibre Dealers Ltd[14]In this case, the court held that the arbitrator became functus officio after he gave the award, but that did not mean that in no circumstances could there be further arbitration proceedings where an award was set aside or that the same arbitrator could never have anything to do with the award with respect to the same dispute.

VIII. In The Arbitration Act of 1940

The Arbitration Act of 1940, enacted on March 14, 1940, and effective from July 1, 1940, was the only legislation applied throughout India, including Pakistan. It stipulates that arbitration awards are not automatically set aside, allowing challenges under Section 30, while Section 33 addresses the nullity of certain awards.

However, the Act fails to recognise the potential non-existence or inadequacy of arbitration agreements and does not cover personal or private legal agreements. Additionally, the rules governing awards vary across High Courts.[15] A notable limitation is the restriction on an arbitrator's ability to resign during proceedings, which can lead to significant losses, particularly if the arbitrator acts in bad faith. The Act also lacks clear provisions for replacing an arbitrator who dies during the process.

Indian Journal of Contemporary Legal and Social Issues

[10] Nusserwanjee & Ors. v. Meermynooden Khan Wuleed Meer Sudrooden Khan Bahador, 6 Moo. I.A. 134 (Privy Council)
[11] Ibid at 9
[12] Gojendra Singh v. Burg, AIR 1939 All 227
[13] Binkurrai Lakshami Prasad v. Gaswant Rai Prasad, AIR 1916 All 302
[14] Juggilal Kamlapat v. General Fibre Dealers Ltd., AIR 1962 SC 1123, 1962 SCR (2) 101
[15] Ibid at 10

IX. Legal Services Authority Act, 2015 (as amended)

The enactment of this legislation formally recognised Lok Adalat, transforming these forums into institutions akin to people's courts with legal authority to facilitate amicable dispute resolution. Lok Adalat now offers a streamlined, cost-effective mechanism for individuals to resolve disputes outside the conventional court system. The awards issued by Lok Adalat are final and binding, mirroring the decree of a civil court, and are rendered without any associated court fees or the possibility of appeal. This statutory framework has significantly enhanced access to justice for ordinary citizens, enabling them to settle disputes swiftly and peacefully.

In the case of State of Punjab v. Jalour Singh[16]The Supreme Court of India clarified that Lok Adalats are empowered to resolve cases only when both parties consent to a compromise. They do not possess the authority to adjudicate disputes based on their merits or to function as traditional courts. The primary objective of Lok Adalat is to facilitate a settlement between the parties involved, rather than to determine right or wrong in the dispute.

X. The Mediation Act, 2023

The Act establishes India's first comprehensive legal framework for mediation, encouraging parties to pursue mediation before litigation. It supports community mediation efforts and acknowledges online mediation as a legitimate alternative. A key feature of the Act is that it renders mediated settlement agreements legally enforceable, equating their status to that of court judgments. Additionally, it creates the Mediation Council of India, tasked with regulating mediators and ensuring that the mediation process remains confidential and time-bound, generally to be completed within 180 days. By fostering a structured and accessible mediation process, the Act seeks to expedite dispute resolution, making it less adversarial and more inclusive for all parties involved.[17]

Indian Journal of Contemporary Legal and Social Issues

[16] State of Punjab v. Jalour Singh, (2008) 2 SCC 660

[17] Singh, Arjun, "The Mediation Act, 2023: Transforming Dispute Resolution in India," Indian Law Review, Vol. 12, Issue 3, 2024, pp. 215-231

XI. Recommendations for Strengthening Alternative Dispute Resolution (ADR) in India

As the demand for efficient legal solutions grows in India, enhanced Alternative Dispute Resolution (ADR) mechanisms are essential. Here are some key recommendations:

1. Promote Legal Literacy and Awareness: Launch campaigns at national and grassroots levels to educate the public on ADR methods, emphasising their benefits and processes. Collaborate with educational institutions and media to spread the message.

2. Incorporate ADR in Education: Law schools should include ADR in their curricula, providing students with practical exposure to mediation and arbitration, thus cultivating skilled practitioners.

3. Strengthen Mediation Centres: Establish government-sponsored mediation centres in every district to offer low-cost, accessible services, ensuring a culturally sensitive and user-friendly approach.

4. Engage the Legal Community: Encourage bar associations to organise ADR-focused seminars and training. Introduce incentives, such as certification, to motivate lawyers to specialise in ADR.[18]

5. Amend Legislation: Update laws to prioritise ADR, mandating pre-litigation mediation for certain disputes, and reinforce the enforcement of mediation outcomes.

6. Elevate Lok Adalats: Maximise Lok Adalats' effectiveness by granting them greater autonomy and resources, and fostering collaboration with NGOs to reach marginalised communities.

Indian Journal of Contemporary Legal and Social Issues

7. Integrate Technology: Implement digital platforms for online ADR processes to enhance accessibility, especially for remote parties. Offer online training for practitioners and users.

8. Mandate Mediation Pre-Litigation: Require parties to attempt mediation before court litigation to reduce court congestion and encourage collaborative solutions.

9. Foster Public-Private Partnerships: Collaborate with private entities to enhance ADR resources and establish more mediation centres, training programs, and pro bono services.

---

[18] Prashant Subhash Arbune ,Dr. Priti Vijaynarayan Yadav,Comparative Analysis of the Efficacy of Alternative Dispute Resolution Mechanisms in India and the UK, 7742 (2023)

10. Incentivise Community Involvement: Engage community leaders in ADR processes to foster acceptance and participation.

11. Evaluate ADR Performance: Conduct regular assessments of ADR methods to identify improvements and measure their impact on court traffic, guiding policy and resource allocation.[19]

These recommendations aim to enhance the effectiveness of ADR in India, reduce judicial backlog, and empower citizens with accessible means of dispute resolution. Their successful implementation requires concerted efforts from the government, legal institutions, and civil society.

XII. Conclusion & Suggestions

To optimise the effectiveness of alternative dispute resolution (ADR) mechanisms, the government must prioritise and promote methods such as arbitration, mediation, and conciliation. Although these mechanisms have been employed by numerous individuals in various instances, there remains a significant opportunity for their more extensive and efficient utilisation. ADR was conceived as a solution to address diverse disputes while simultaneously fostering societal development and alleviating the burden on our judicial system.

The essence of these alternative methods lies in the autonomy granted to the parties involved, allowing them the freedom to choose ADR as a preferred substitute for conventional litigation. However, to ensure that such mechanisms flourish, the government must establish comprehensive legislation that cost-effectively facilitates their implementation. Currently, many individuals encounter significant barriers due to the high costs associated with appointing qualified arbitrators or mediators. While free legal representation is often available through public litigation services, pro bono mediation remains a rare resource, presenting a challenge for those seeking accessible and fair resolution of their disputes.

Indian Journal of Contemporary
Legal and Social Issues

Furthermore, it is essential to address the prevailing dissatisfaction surrounding the accessibility and affordability of ADR. For these alternative mechanisms to gain widespread acceptance, they must be designed to minimise complexities while embodying flexibility, equity, and binding authority for the involved parties. The current state of the ADR framework

[19] Ibid at 7743

reveals that it is not yet an adequately accessible solution for all, particularly for those facing financial constraints when attempting to resolve their disputes.

Therefore, the government must take proactive measures in formulating appropriate legislation that not only supports the development of ADR but also ensures it is an inclusive option for all citizens. Enhancing the framework surrounding alternative dispute resolution will empower individuals to pursue equitable outcomes without prohibitive financial burden, ultimately contributing to a more efficient legal system and a more harmonious society.

Indian Journal of Contemporary
Legal and Social Issues