



## A Review of ADR Framework in Criminal and Civil Cases of India

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### ABSTRACT

This paper explores the role of Alternative Dispute Resolution (ADR) as a critical mechanism for resolving disputes in emerging markets, with a focus on India and Punjab. ADR, encompassing arbitration, mediation, conciliation, and negotiation, offers faster, cost-effective, and harmonious dispute resolution while easing the burden on overburdened courts. Key challenges such as enforcement issues, limited awareness, inadequate infrastructure, and cultural resistance are highlighted. The study emphasizes sector-specific ADR frameworks, technological solutions like Online Dispute Resolution (ODR), and enhanced training for ADR professionals. It concludes by underlining ADR's potential to boost judicial efficiency, socio-economic development, and equitable access to justice.

**Keywords:** Alternative Dispute Resolution (ADR), Arbitration, Mediation, Online Dispute Resolution (ODR), Judicial Efficiency, Socio-Economic Development

### 1. Introduction

International ADR has emerged as an effective technique for solving disputes without engaging the conventional court system. It includes procedures like; Arbitration, mediation, Conciliation, and Negotiation they are faster, cheaper, and less hostile as compared to traditional court procedures. In the context of emerging markets where India represents a prime example, ADR steps in to fill this gap because of the reality of the Indian judiciary's inability to clear a simple case for many years or even at all in some cases. Thus, the significance of ADR cannot be confined merely to the factor that it reduces the burden on the judiciary in India. It has an important responsibility to provide a good climate for the improvements of the economy through foreign direct investment (FDI) in addition to the effective management of commercial and contractual disputes. However, there are some difficulties and factors that affect ADR in India such as lesser awareness, uncertainty regarding the enforcement of the arbitral awards, insufficient social and human capital and skilled personnel.

Another huge problem is the poor effectiveness of the enforcement of awards received from the arbitral forum, which triggers uncertainty about the system. Even though Indian courts are bound by the provisions of the Arbitration and Conciliation Act, of 1996, frequent interference, and delays in enforcement reduce the efficacy of the arbitration process. Another such challenge is the lack of infrastructure and qualified human resources (Dhingra, 2020). ADR employs specialized skills in the use of arbitrators, mediators, and another related human resource that are rare in many corners of India, including rural regions. This paper aims to ascertain and evaluate how ADR has become an essential approach to solving disputes effectively and harmoniously in emerging markets, especially in Punjab, India

### 2. Alternative Dispute Resolution (ADR) in Criminal Cases

#### 2.1 Current Challenges in Criminal Cases

Table 1: Challenges during Criminal Case Judgement

(Source: Shaikh et al., 2020; Deroy et al., 2024)

Challenge	Impact	Recommendation	Outcome
Limited Awareness and Understanding	Underutilization of ADR mechanisms despite potential benefits	Public awareness campaigns via seminars, outreach programs, and media	Increased awareness and utilization of ADR mechanisms
Resistance from the Legal Community	Reluctance to promote or participate in ADR processes	Educate legal professionals on ADR benefits through training workshops	Greater acceptance of ADR by the legal community

Enforcement of ADR Awards	Undermines credibility and discourages adoption	Amendments to laws ensuring consistent enforcement practices	Improved confidence in ADR awards
Quality of ADR Professionals	Ineffective proceedings due to inexperienced professionals	Implement training, certification, and regulatory oversight	Fairer and more efficient ADR processes
Backlog and Delay in ADR Proceedings	Diminishes attractiveness of ADR as a faster resolution mechanism	Improve infrastructure, streamline procedures, and reduce administrative inefficiencies	Timely and efficient ADR outcomes
Cultural Resistance and Mindset	Preference for adversarial methods and reluctance to collaborate	Educate communities about the collaborative benefits of ADR	Gradual cultural shift toward ADR methods
Lack of Standardization and Uniformity	Creates inconsistency and undermines confidence in ADR processes	Develop standardized guidelines and best practices	Enhanced reliability and fairness in ADR
Accessibility and Affordability	Marginalized groups face barriers to accessing ADR mechanisms	Provide legal aid, local language services, and establish ADR centers in remote areas	Broader access to ADR and justice for all
Infrastructure Constraints	Insufficient facilities for ADR proceedings	Invest in ADR infrastructure such as mediation and arbitration centers	Better logistics for efficient ADR handling
Insufficient Stakeholder Engagement	Limited collaboration among stakeholders like courts, lawyers, and ADR institutions	Foster partnerships and stakeholder forums to discuss ADR advancements	Unified efforts to promote ADR across the justice system

## 2.2 Implementation of ADR in Criminal Cases

Lok Adalats as effective and inexpensive agencies to resolve minor civil and criminal cases. These forums promote friendly hearings, often acting as the cheapest means of executing resolutions on disputes especially those affecting poor persons. The enactment of the Commercial Courts Act in the year 2015 added to the advanced requirement of Pre-Institution mediation in commercial matters and showed that ADR was gaining grounds in easing the burden on the courts and speedy trials in business-related cases (Singh, 2021). Availability of justice continues to be a major problem in India, particularly in rural and other underserved areas. Some of the ADR mechanisms include the Lok Adalats and mediation, which are cheaper, more convenient and faster to determine the injustices done to the marginalized groups (Kumar & Deka, 2022).

Lok Adalats constituted under the Legal Services Authorities Act 1987 has proved useful on the whole to deliver justice to have given section of society. In *Bharat Aluminum Co. v. Kaiser Aluminum Technical Services Inc.* 2012, the Supreme Court delimited the contours of judicial activism in international arbitration and brought India to par with International Standards (SCI, 2011). This decision further boosted the confidence of foreign investors and businesses in India as an arbitration-friendly nation.

## 2.3 Practical Cases of ADR implementation

Recently in *DLF Home Developers Ltd. v. Capital Greens Flat Buyers Association* (2021), NCDRC promoted the use of ADR mechanisms under RERA to showcase their usefulness in effectively addressing issues about real estate (SCI, 2020). Lok Adalats constituted under the Legal Services Authorities Act 1987 has proved useful on the whole to deliver justice to have given section of society. In *State of Punjab v. In Jalour Singh* (2008), the Supreme Court re-asserts the finality of awards to other Lok Adalats enhancing the legitimacy and encouraging its use as a viable ADR method (SCI, 2008).

## 3. Types of ADR

### 3.1 Arbitration

Arbitration is very popular in international business and commerce, as well as in many commercial contracts, as a fair and legally binding form of dispute settlement. Many ADR methods are now applied in individual industries, such as real estate, infrastructure, and consumer services, where timely and effective solutions must be found (Mishra & Singh, 2020). The Real Estate (Regulation and Development) Act, of 2016, provides for the conciliation and arbitration mechanism that provides timely dispute redress between developers and buyers (India Code, 2016).

### 3.2 Mediation and Conciliation

Mediation and conciliation entail a large degree of cooperation and compromise and therefore are most suitable in elaborated communal conflict. Enhancing the usage of ADR in Punjab can enhance social justice as it addresses conflict effectively hence preserving friendship and eliminating the competitiveness of the court systems. This is appropriate, especially for the laws of inheritance and property rights that are frequently in breach in the region. For Punjab, mandatory pre-litigation mediation, as advocated under the Commercial Courts Act, 2015 can be a game changer (Sherman & Momani, 2024). Pretrial genuine compromises help parties avoid trial and save time for both the parties and the judicial system.

### 3.3 Negotiation

Negotiation provides a voluntary, non-adjudicative process where parties resolve disputes themselves. Negotiation offers significant advantages, including faster resolutions and reduced legal expenses, thereby facilitating a favourable climate for business and economic development (Singh, 2022). Despite its potential, ADR in India faces several challenges, including limited awareness, cultural resistance, inadequate infrastructure, and difficulties in enforcing arbitral awards.

### 3.4 Lok Adalat

Unlike India's ADR structures where ADR structures deal with business and corporate-related issues and Lok Adalats being for civil small matters, South Africa reveals that sector-based ADR structures hold the key towards effective problem-solving. The apartheid government of South Africa focused on implementing models for the settlement of disputes in various labor among industries which proposes an emulation for agriculturing and manufacturing industries including Punjab for India (Singh, 2021).

### 3.5 Online Dispute Resolution (ODR)

Online Dispute Resolution (ODR) leverages technology for accessibility. Technological integration via ODR reveals ways by which Indonesia has adopted technology to make its services accessible across geographical locations and is therefore a good model to emulate (Chawla & Kumar, 2022).

## 4. Challenges of ADR Integration and Recommendations

Table 2: Challenges and Recommendations

No.	Challenges	Recommendation	Details
1	Poor compliance with arbitration awards	Enhance Compliance with Arbitration Awards	Focus on improving adherence to arbitral decisions to encourage greater trust and investment in the arbitration process.
2	Lack of sector-specific ADR mechanisms	Develop Sector-Specific ADR Mechanisms	Create ADR frameworks tailored to address disputes common in agriculture, real estate, and small businesses, particularly in Punjab.
3	Limited awareness of ADR processes	Raise Awareness about ADR	Conduct awareness campaigns targeting rural and semi-urban populations to improve knowledge and utilization of ADR processes.
4	Accessibility challenges in ADR	Incorporate Technological Solutions	Leverage Online Dispute Resolution (ODR) platforms to address accessibility challenges and streamline dispute resolution.
5	Inadequate expertise of mediators and arbitrators	Provide Training for Mediators and Arbitrators	Organize specialized training programs to build mediator and arbitrator capacity, thereby enhancing confidence in ADR processes.
6	Weak institutional infrastructure for ADR	Institutionalize ADR Mechanisms	Establish robust ADR institutions to manage disputes effectively and ensure sustainability of the system.
7	Limited ADR access in rural and remote areas	Expand ADR Coverage to Remote Areas	Deploy mobile ADR centers or localized services to ensure access to dispute resolution in rural and underserved regions.

8	Insufficient court support for ADR	Promote Judicial Support for ADR	Advocate for courts to actively support and refer suitable cases to ADR to reduce litigation burden.
9	High cost of ADR processes	Ensure Affordable ADR Processes	Implement policies to make ADR processes cost-effective, particularly for SMEs and low-income populations.
10	Lack of evaluation and improvement mechanisms	Monitor and Evaluate ADR Effectiveness	Establish a systematic process to monitor the performance of ADR mechanisms, collect user feedback, and regularly update practices to improve outcomes.

## 5. Conclusion

The following section presents the conclusion of the study underlining the important findings and the role of ADR in managing socio-economic as well as legal issues in the emerging market including India with special reference to Punjab. This paper notes that India, for instance, as a country with a strong legal framework on ADR has some major weaknesses: enforcement difficulties, low awareness, and regional variations. The study focuses on how ADR helps in handling of judicial caseload, economic development and enhanced access to justice. It affirms that practical legal changes, Richardson and awareness raising measures, and technological solutions are also important to improve ADR efficacy in India.

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