



Role of Alternative Dispute Resolution in the Indian Criminal Justice System

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ABSTRACT :

A speedy trial is an important constituent of an effectual criminal justice system, as prolonged delays can amount to a denial of justice. The Indian Constitution, under Part III, upholds the rights to the speedy trial as a basic right available to all citizens. Although, the overburdened judiciary, coupled with the complex and time consuming nature of litigation, as well as the high cost involved, has led to the emergence of ADR as a practical solution. The basic goal of incorporating ADR mechanism into criminal proceedings is to offer an affordable and accessible form of justice, mainly for people involved in minor or petty crimes. These mechanisms also serve to shield the accused from unnecessary delays inherent in traditional legal processes. As a result, the Indian criminal justice system has increasingly recognized the value of ADR, particularly in enhancing the understanding and application of plea bargaining as a means of encouraging timely and effective resolution of criminal cases.

ADR mechanisms have emerged as viable tools to address these challenges, especially in the context of minor and compoundable offences. This study explores the evolving role of ADR within the Indian criminal justice framework, examining its legal basis, practical applications, and overall impact on justice delivery. By analyzing statutory provisions, case law, and institutional practices, this article highlights how ADR contributes to decongesting courts, promoting victim-offender reconciliation, and offering quicker, cost-effective resolution of disputes. The study also evaluates the limitations and challenges in adopting ADR in criminal matters, including concerns related to voluntariness, fairness, and institutional capacity. The paper concludes with recommendations for strengthening ADR mechanisms to support a more balanced and restorative model of criminal justice in India.

Keywords: Criminal Justice System, ADR

INTRODUCTION

The concept of Alternative Dispute Resolution (ADR) system is competent to providing an alternative to the traditional approaches of settling disputes. ADR provides to resolve every form of subjects comprising civil, business, industrial and family etc., where people aren't being capable to begin every type of negotiations and attain the resolution. In general, ADR utilizes neutral third parties who help the parties to converse, discuss the difference and resolves the dispute. It is an approach which allows people and team to keep cooperation, societal orders and gives opportunities to reduce hostility.

ADR presents an effective and efficient alternative to the conventional legal process for resolving conflicts. It is widely applicable to different forms of disputes, including those related to civil matters, business transactions, industrial relations, and family issues. ADR is particularly useful when parties find it difficult to initiate discussions or come to an agreement on their own. In India, the key forms of ADR include arbitration, negotiation, mediation, and Lok Adalats. As the term suggests, the primary aim of ADR is to settle disputes without resorting to the traditional court system. ADR covers a broad range of approaches - from fully voluntary methods like negotiation and mediation to more structured processes such as arbitration and conciliation, which may involve formal procedures while still operating outside the conventional judicial framework.¹

The famous saying "justice delayed is justice denied" aptly captures the growing concern over the inefficiency of the current legal system. There is an increasing demand for alternative methods that can provide justice to ordinary citizens in a quicker, more affordable manner, especially when compared to the traditional court process, which is often slow and expensive. Given that India is at a pivotal stage in its development, it has become imperative to revisit and reevaluate older methods of dispute resolution. Without a justice delivery system that is both swift and economically sustainable, individuals seeking criminal justice may begin to view the legal process as sluggish and ineffective, thereby eroding their confidence in the current judicial system. The role of ADR in enhancing the speed and efficiency of justice delivery in India requires further exploration to address these challenges. Legal reforms, judicial support, and increased awareness about ADR method can help optimize its use, offering a viable solution to the problem of delayed justice. A robust integration of ADR into the Indian judicial system could significantly reduce case backlogs and improve access to timely and affordable justice for citizens. Therefore, it is crucial to assess how ADR can be better executed to contribute to a more efficient, timely, and accessible justice system in India.

¹Totaro, Gianna., "Avoid court at all costs" *The Australian Financial Review* 8 (2018.)

Problem Statement

The criminal justice system in India is plagued by considerable delays, procedural inefficiencies, and an enormous backlog of cases, which often results in the denial of timely justice. Even though the constitutional assurance of the rights to the speedy trial, systemic issues like insufficient judicial infrastructure, high litigation costs, and prolonged trials continue to undercut this fundamental right. Conventional criminal litigation, particularly for petty and compoundable offences, burdens both the courts and the parties involved, leading to unnecessary incarceration and societal costs. In this context, ADR mechanism has emerged as possible tools to alleviate the pressure on the judiciary by offering quicker, lucrative, and more accessible means of resolving criminal disputes. Though, the integration of ADR into the criminal justice system in India remains restricted, raising vital questions about its scope, efficiency, legal validity, and execution problems in attaining restorative and equitable justice.

OBJECTIVE OF THE STUDY

- To examine the effectiveness of ADR in resolving criminal disputes
- To explore the role of ADR in boosting access to justice for marginalized and rural communities in India
- To analyze the issues and challenges in executing ADR in criminal matters and suggest policy measures for its wider adoption in India.

LITERATURE REVIEW

In a research paper Arpit Jain (2021)² pointed out that within an ADR system, parties have the flexibility to choose the venue for mediation as well as the jurisdiction of the courts, provided such choices align with the provisions of CPC and applicable conflict of laws rules. Although, the Bill does not address the implications of failing to register or stamp a mediated settlement agreement. In spite of this omission, there is no doubt that the introduction of this Bill marks a significant and progressive step forward in enhancing the ADR landscape.

Dhruti Dewangan (2024)³ points out that ADR offers several benefits over conventional court proceedings, particularly when parties seek a definitive and enforceable outcome. ADR not only provides a more affordable and accessible avenue for dispute resolution, but it also allows for the possibility of appealing to the courts if one or both parties are dissatisfied with the outcome.

Chowdhury and Jamila (2013)⁴ illustrated that the Indian Constitution offers the foundational system necessary for the functioning of ADR approaches. What remains is for the state to execute proper legislation to support and operationalize this system. As a nation committed to safeguarding the broad spectrum of economic and social rights of its citizens, India should recognize the essential role that ADR plays in delivering justice, especially to those who are vulnerable or at risk.

Wadhwa and Richa Relhan (2023)⁵ This article aimed to identify how ADR approaches can expand the scope of justice beyond the confines of traditional courtrooms. The paper evaluates the strengths, limitations, and in general effectiveness of ADR in promoting fair and accessible dispute resolution across diverse segments of society. By examining case studies, relevant legal provisions, and empirical data, this study seeks to highlight the transformative capacity of ADR mechanisms in achieving equitable justice for all stakeholders.

PRESENT STATUS OF ADR IN INDIA

ADR is far from a recent development in India. The idea of resolving conflicts with the help of chosen individuals, agreed upon by both parties, has deep roots in India's ancient legal and social traditions, as previously mentioned. Although, in modern times, the growing dissatisfaction with litigation - primarily because of its lengthy duration, high costs, and emotional strain - has led both developed and developing countries, including India, to explore more efficient alternatives. This shift has resulted in a notable rise in the adoption and institutionalization of ADR methods across the country.

To accommodate this growing need for quicker and more cost-effective dispute resolution, Indian laws have been systematically restructured. The judiciary has actively promoted settlement outside the courtroom to help alleviate the ever-increasing backlog of cases. Several bodies have been established specifically for this purpose, like the ICA, the ICADR, consumer forums, and Lok Adalats - all of which are dedicated to executing ADR approaches effectively.

The major steps in this direction was the repeal of the outdated Arbitration Act of 1940, which was replaced by A&C Act of 1996. This modern legislation introduced a more efficient arbitration system inspired by the UNCITRAL Model Law. In addition, the LSA Act of 1987 has undergone multiple amendments to better support the institutional use of ADR techniques.

Moreover, the amendment of Section 89 of CPC in 2002 marked a crucial development, allowing courts to refer case for conciliations, mediations, or pretrial settlements. These reforms reflect a broader effort to ensure that disputes are resolved in a more timely, cost-effective, and amicable manner, while easing the burden on the formal judicial system.

ADR methods have proven to be valuable tools in resolving disputes efficiently and amicably. While ADR was once perceived merely as a voluntary option exercised at the discretion of the disputing parties, it has now been granted formal statutory recognition through different legislative instruments. These include CPC Amendment Act of 1999, the ACA, 1996, the LSA 1997, and the subsequent Legal Services Authorities (Amendment) Act of 2002.

² Arpit Jain, Role of ADR in access to justice, IJL (2020)

³ Dhruti Dewangan, Beyond Courtrooms: ADR as a Pathway To Justice For All, IJLR (2024)

⁴ A Chowdhury and Jamila, "ADR Theories and Practices", *London College of Legal Studies* (2013)

⁵ Amit Wadhwa and Relhan, "Mediation by necessity", *Law Asia Journal*, 20 (2023)

Section 23(2)⁶ requires that, before granting any relief under the Act, the court should initially attempt to facilitate reconciliation amongst the parties - provided that the situation and nature of the case allow for such an effort. In alignment with this goal, the Family Courts Act of 1984 was introduced to establish dedicated Family Courts. These courts aim to encourage conciliation and ensure the swift settlement of disputes related to marriage, family relationships, and associated matters. Unlike standard civil litigation, these courts follow a more specialized and conciliatory approach to handling family issues.⁷

Arbitration and Conciliation Act, 1996

A&C Act represents a significant initiative by the Indian Parliament to establish a unified and modern legal system for ADR. Prior to its enactment, domestic and international arbitration matters were governed by distinct statutes. The Arbitration Act of 1940 focused solely on domestic disputes, while international arbitral awards were categorized and addressed under different legislations depending on whether they fell under Geneva Convention..

The 1996 Act aligns closely with the UNCITRAL Model, signaling a departure from the earlier, more rigid and state-controlled ADR approaches in India. While its primary focus is on arbitration, the Act also acknowledges conciliation as a legitimate and structured form of dispute resolutions, which had not been formally recognized in previous legislation.

In *SMS Tea Estate v. Chandmari Tea Co.*⁸ wherein the The court has clarified that an arbitration agreement does not need to be registered under the provisions of the Registration Act. Therefore, even if the arbitration clause is part of a document that legally requires registration but has not been registered, it remains valid and enforceable. Additionally, any concerns regarding inadequate stamping of the document do not hinder the appointment of an arbitrator. Such issues fall within the jurisdiction of the arbitrator, who is empowered to address them under Section 33 and other applicable sections of the Stamp Act.

This legislative reform can also be seen as a response to the Indian judiciary's earlier approach to ADR, which was often criticized for being overly interventionist and inefficient. Several key provisions in the Act directly address longstanding controversies and legal ambiguities that had previously been deliberated upon by SCI, indicating a clear intent to streamline and modernize the ADR landscape in the country.

Civil Procedure Code, 1908

India has established a robust legal system to support and institutionalize ADR, aiming to ensure that these methods function efficiently and in line with international practices.

Section 89⁹ grants courts the authority to direct parties toward ADR methods when it appears that an out-of-court settlement is possible. It formally recognizes different forms of ADR, including arbitration, conciliation, mediation, and proceedings before Lok Adalats. By incorporating these methods, the provision seeks to encourage swifter, less adversarial resolution of disputes.

The execution and interpretation of Section 89 began to take shape in the case of *Salem Advocate Bar Association v. UOI*¹⁰. In this case, Court upheld the constitutional validity of the provision and appreciated its intent to reduce the pendency of cases through ADR. At the time, criticism was limited, as Section 89 was a relatively new addition. Although, the Court acknowledged its lack of effectiveness because of unclear procedural guidelines. To address this, a committee was established to frame model rules, and the Court advised High Courts to adopt these rules to operationalize Section 89(2)(d) effectively.

Mediation Bill, 2023

The Mediation Act, 2023 aims to formally establish mediations as a central method for resolve dispute exterior the court, giving comprehensive legal system to support and regulate mediation. By ensuring that settlements achieved through mediation are legally enforceable and highlighting the principles of confidentiality and voluntary participation, the Act seeks to enhance the legitimacy and trust in mediation as a reliable ADR method.

At its core, the Act intends to promote and streamline mediation, particularly in its institutional, online, and community-based forms. It emphasizes the timely resolution of disputes, enforces mediated settlement agreements, and sets up a regulatory system for registering mediators and mediation institutions.

CRITICAL ANALYSIS

ADR mechanism in India are backed by a strong legislative framework that aims to reduce the burden on traditional courts and promote speedy, cost-effective justice. The cornerstone of ADR laws in India is A&C Act provides comprehensive provisions for domestic and international arbitration and conciliation. Additionally, Section 89 (CPC) mandates courts to refer disputes to ADR methods like arbitration, mediation, conciliation, and judicial settlement when possible. Recent developments further reinforce this by making pre-institution mediation mandatory in certain commercial disputes. These laws indicate a growing institutional support for ADR in India, backed by both judicial encouragement and statutory mandates.

⁶ Section 23(2) of the Hindu Marriage Act, 1955

⁷ K.A.Abdul v.T.A.Sahidn, (2003) 4 SCC 166.

⁸ (2011) 14 SCC 66

⁹ Section 89 of the Civil Procedure Code, 1908

¹⁰ 2003 (1) SCC 49

However, despite the legal framework, the practical implementation of ADR in India confronts significant issues. One key problem is the lack of adequate infrastructure, trained professionals, and awareness among litigants, especially in rural areas. Moreover, while the law promotes ADR, courts sometimes interfere excessively in arbitration proceedings, undermining the principle of minimal judicial intervention. Additionally, although the legal provisions for mediation and conciliation exist, they are underutilized due to lack of standardization and institutional backing compared to arbitration. Thus, while the statutory support for ADR is robust on paper, its effectiveness is diluted by executional gaps, necessitating systemic reforms, awareness campaigns, and stronger institutional frameworks to make ADR a truly viable alternative to litigation in India.

conclusion

ADR plays a vital role in accelerating justice delivery in India, where the conventional judicial system often face massive case backlog and lengthy proceedings. Tools like arbitration, mediation, conciliation, and negotiation serve as effective and flexible alternatives to traditional court trials. These methods help shift the burden of civil and commercial disputes from the courts, allowing judges to prioritize complex and criminal matters.

One of ADR's most significant strengths lies in its ability to resolve disputes much faster than traditional litigation. Indian courts can take years to settle a case, whereas mediation and arbitration processes often conclude in just weeks or months. This efficiency not only saves valuable time and money for the disputing parties but also enhances public trust in the legal system by making it more accessible and less intimidating.

In addition, ADR encourages communication, mutual understanding, and compromise amongst conflicting parties. Unlike courtroom litigation, which is usually adversarial, ADR promotes cooperative problem-solving. This is particularly valuable in disputes involving families, labor, or businesses, as it helps preserve relationships and reduce the chance of ongoing hostility.

ADR is not merely an alternative - it is a powerful complement to India's formal judicial structure. By offering cost-effective, faster, and amicable dispute resolution options, ADR significantly contributes to the vision of a more efficient justice delivery system. As India reforms and modernizes its legal ecosystem, investing in and promoting ADR will be essential for ensuring timely and inclusive justice for all. Corporates and industry bodies should be encouraged to adopt ADR clauses in their contracts and resolve disputes through institutional arbitration. This reduces the burden on commercial courts and helps resolve business conflicts swiftly.

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