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EMERGING TRENDS IN ADR AND BLOCKCHAIN TECHNOLOGY WITH ADR.

SUB-THEME:- NEW TRENDS IN ADR AND HOW BLOCKCHAIN USED IN ADR.

Abstract:- The main aim of this article is to examine the evolving landscape of Alternative Dispute Resolution (ADR). It mainly focusing on recent trends in the field of ADR. As ADR main work is to solve the dispute with court interference. It's methods are very effective and money saving. The main types of ADR are very friendly and we already known but there are many other new trends which are coming nowadays in the preview of Alternative Dispute Resolution. So this paper explores the transformative landscape of ADR with Emerging trends and focusing on new methods like "ODR"(Online Dispute Resolution) mainly used during Covid-19, Impact of Covid-19 on ADR, Blockchain technology , Smart contracts, Other specialized ADR mechanisms, AI in ADR, Mediation and Conciliation.

This paper also delves about ADR Concept in deep dive with it's Historical development in india. ADR sphere is the integration of blockchain technology. This article explores how blockchain's

decentralized and secure ledger system is being used to enhance transparency, efficiency, and trustworthiness in ADR processes. Smart contracts, with their self-executing capabilities, automate resolution mechanisms, reducing the need for intermediaries and ensuring a tamper-resistant process.

KEY WORDS:- Transformative, Emerging trends, Online Dispute Resolution, Blockchain, Smart Contracts, Decentralized.

INTRODUCTION:-

ADR stands for Alternative Dispute Resolution , refers to a set of techniques and methods used to resolve the conflicts/issues outside the traditional courtroom litigation with fast and effective way. ADR is an alternative to the formal legal system and also known as External dispute resolution. ADR methods are often quicker, less formal, more flexible and settle dispute in speedy way. In simple words It's like a toolbox full of friendly methods to help people talk, understand each other, and find solutions that everyone can agree on.

In recent years, ADR techniques is used in every world but mostly in business world. People find it easy to settle their disputes with different ways without the heavy litigation system. The methods of ADR is getting famous day by day because, it has a lot of benefits for peoples but vary on the nature of their case. Many organizations, enterprises, and new developing entrepreneurs are all turning to the alternative dispute resolution system to prevent unnecessary legal battles and it also save money and time without court disturbance. ADR may be used to resolve disputes which may arise from a relationship or a transaction in a simple, straightforward, and time-saving manner. It deals with family law, business contracts, negligence, partnerships, and public conflicts, among other things.

As we know Indian Legal system is one of the oldest legal system in the world, has both perspectives, negative or positive. For getting justice people's had to wait more because judiciary is overburdened from huge pendency of cases in the courts. So pendency and delays lining the need of ADR methods and ADR is introduced. It should help parties to finish dispute without court proceedings. It's a good way to solve problems without making things worse. It can help both sides of the argument agree on something and keep things peaceful.

Section 89 of the Civil Procedure Code particularly defines the methods for resolving conflicts between the parties. Alternative Dispute Resolution is a means of resolving disputes that is both faster and less expensive than going to court.

ADR and India Constitution:-

ADR is also included under fundamental rights in Indian constitution. Constitution includes Fundamental rights Article 14, 21 and 39 A of India Constitution.

Incorporation into Fundamental Rights:- Alternative Dispute Resolution (ADR) finds its place within the cornerstone of India's legal system, enshrined in the Fundamental Rights guaranteed by the Constitution. Specifically, it is recognized under Article 14 and Article 21, which uphold the principles of equality before the law and the right to life and personal liberty, respectively. Through the way of indian constitution ADR matches what India's Constitution stands for: fairness in society, fairness in the economy, and fairness in politics. It keeps the country's integrity intact by solving problems peacefully. Article 39A says the government must provide free legal help to people who can't afford it. This fits perfectly with ADR's aim of giving everyone a fair chance, no matter how much money they have and what's the class and status of that person in society.¹

ADR METHODS:-

1. **Arbitration:-** Arbitration is the first method of ADR. It is a type that takes place outside of court. Arbitration is a bit like a mini-court. A neutral person listens to both sides and makes a decision that everyone has to follow means (decision binding on parties). It is Commonly used in commercial disputes, construction contracts, and international business agreements.
2. **Conciliation:-** Conciliation is less formal form of Arbitration. Conciliation is a lot like mediation, where a neutral person helps parties to agree on a mutual decision. It's all about finding common ground. It is mostly used in various contexts, including labor disputes, contractual disagreements, and family matters.

¹ Revati Magaonkar, Recent development in ADR, (iPleaders, 2021), <https://blog.iplayers.in/recent-developments-alternative-dispute-resolution-adr/>. , last visited 14 April, 2024, 1: 21 PM.

3. **Mediation:-** Mediation is Informal and Structured process. It is a voluntary process where a neutral mediator facilitates discussions between parties to help them reach a mutually satisfactory agreement. It is mostly used in family disputes, workplace conflicts, and civil matters.
4. **Negotiation:-** Negotiation doesn't include involvement of any third party. A non-binding procedure between disputed parties with the intervention of third party. It's all about finding a solution that works for everyone who involved under a dispute. This means both sides can share their thoughts, interests, and possible solutions. It's a flexible and informal way to resolve disputes, giving everyone a chance to be heard and find common ground. It mostly used in business, Ngo's, government branches, personal situations etc. ²
5. **Lok Adalat:-** Lok Adalat is a part of ADR system, which offers quick, expensive and informal justice to general public. Lok Adalat , or People's Courts, are informal community-based forums where disputes are resolved through conciliation and mediation. It is mainly used for matters like family disputes, property issues, and motor accident claims. Lok Adalats are informal groups where people can settle disputes without going to regular courts. They were set up after certain laws were passed in 1987 and 1996 to encourage out-of-court settlements. These forums help lighten the load on the formal court system by resolving issues quickly and efficiently. ³

EMERGING TRENDS IN ADR:-

The world of Alternative Dispute Resolution is coming with new and exciting trends, offering effective ways to solve the disputes.

² Daniel Liberto, Alternative Dispute Resolution Definition and Meaning, (Investopedia , 2023), <https://www.investopedia.com/terms/a/alternative-dispute-resolution.asp> , last visited 14April, 2024, 5:00 PM.

³ Khaliqul Azam, Alternative Dispute Resolution, (Legal Services India), <https://www.legalserviceindia.com/legal/article-1678-alternative-dispute-resolution-adr-.html> , last visited 14 April, 2024, 5:38PM.

Covid-19 situation give a high rise to ADR trends in india. During the covid-19 pandemic the whole world witness of its positive as well as negative side. But at that time ADR found some new methods which are really very helpful in future. When the regular way of handling cases in Indian courts had to stop because of the pandemic, the legal system saw a big problem at that time a lot of cases were pending and creating a backlog. To tackle this issue, the courts turned to Alternative Dispute Resolution (ADR) methods, realizing their benefits. Virtual hearing in courts (Virtual ADR), E- Negotiation etc. Let's explore new trends introduced in ADR.

1. **Online Dispute Resolution (ODR):-** Online Dispute Resolution is such a game changer in the field of ADR. Online Dispute Resolution (ODR) is a method of resolving conflicts using the internet. It goes beyond traditional alternative dispute resolution by using online techniques such as email submissions and videoconferencing, online hearing/ Proceedings.

In cases like eBay and PayPal, ODR proves effective in swiftly addressing disputes between buyers and sellers on digital platforms.

Family Law Mediation:- Some jurisdictions have introduced ODR in family law matters. Virtual mediation sessions and online tools have been utilized to facilitate communication and resolution in matrimonial disputes.

Online Dispute Resolution provides ample of advantages, making it efficient method to solve dispute in various contexts. Online Dispute Resolution (ODR) offers several advantages:

1. **Cost-Effective:** ODR saves money by resolving issues faster and often without the need for costly legal advice, making it a budget-friendly option.
2. **Convenient and Quick:** ODR eliminates the hassle of travel and scheduling conflicts, making dispute resolution easier and faster for everyone involved.
3. **Increased Access to Justice:** By embracing ODR, India demonstrates its commitment to providing equal access to justice for all, aligning with global Sustainable Development Goals. Tools like online negotiation and mediation make resolving disputes less adversarial and more accessible.

4. Removes Unconscious Bias: ODR processes help minimize the influence of unconscious bias, ensuring a fairer outcome for all parties.⁴

2. **Hybrid ADR processes(Mediation and Arbitration):-** In India, Hybrid ADR (Alternative Dispute Resolution) processes combine two ways of resolving problems: talking it out (mediation) and having someone make a decision (arbitration). Let's understand this with a simple example.

Imagine two friends in India having a disagreement over something. They decide to use a Hybrid ADR process. First, they sit down with a mediator, like a peacemaker. This mediator helps them talk and find a solution they both like. If they agree, the matter is settled. But if they can't agree, they move to the second step. In the second step, an arbitrator steps in. It's like having a fair judge. The friends present their arguments, and the arbitrator makes a decision. This decision is final, and everyone has to follow it. Because Arbitrator decision is binding on both parties. Let's understand this concept with a Commercial dispute example.

Commercial Disputes: Consider a situation where two Indian companies are in a disagreement over a business deal. Instead of choosing lengthy court process, they can go for a Hybrid ADR process. In the mediation phase, they discuss their concerns with a mediator, aiming to find a middle ground. If they reach an agreement, it's settled. However, if they can't agree, the process smoothly transitions to arbitration. An arbitrator then reviews the facts and makes a binding decision, providing a quick and efficient resolution to the commercial dispute.⁵

3. **AI in ADR:-** In India, think of Artificial Intelligence (AI) as a smart assistant that helps sort out problems without going to court. This technology uses clever computer programs to look at past cases and predict what might happen in a current dispute. It's like a digital

⁴ Online Dispute Resolution, (BYJU'S EXAM PREP), <https://byjus.com/free-ias-prep/online-dispute-resolution-india/> , 14 April, 2024,5:40 PM.

⁵ Pournavnair, Hybrid ADR, (Legal Services India), <https://www.legalserviceindia.com/legal/article-481-hybrid-adr.html> . , 14 April,2024, 5:40 PM.

brain that helps people in India to make better decisions when they're trying to resolve conflicts. AI can also read and understand a bunch of legal papers very fast, making the whole process of sorting out issues quicker and smoother. So, in simple terms, AI in ADR in India is like a super smart Friend, helper making dispute resolution easier and more efficient. Benefits of Using Artificial Intelligence in Alternative Dispute Resolution (ADR):

- **Guidance:** AI can help participants understand how ADR works. It answers questions and explains the process patiently. It's like having a knowledgeable guide who never gets tired of repeating information.
- **Time Saver :-** ADR aims to be quicker than going to court, but lawyers often have loads of paperwork and research to do in a short time. AI can do this work faster, saving everyone time.
- **Cost Saver:** While setting up AI might be pricey at first, it's cheaper in the long run compared to paying lawyers by the hour. Once it's up and running, you just need to cover its running costs.
- **Comfort :** Some folks might feel more comfortable sharing personal stuff with a robot than with a person. For instance, in a divorce talk, people might worry less about being judged by a non-human AI.
- **Less Paperwork:** ADR already has less paperwork than going to court, but AI can make it even easier by sorting through documents quickly or summarizing them for you.
- **Easier Writing :** AI can help write standard parts of arbitration awards, freeing up time for arbitrators to focus on other things and saving money for everyone involved.
- **Better Recording :** Instead of hiring court reporters, AI can record hearings and turn speech into text in real-time, making sure nothing gets missed.
- **Fair Decisions:** AI doesn't have biases or bad days like humans do. It's always fair and logical, making sure decisions are based on facts, not feelings.
- **No Conflicts:-** With AI as arbitrators, there's no worry about them being biased or having conflicts of interest. It's all about fairness and justice.

- Predictions:- AI can help predict what might happen in a case based on past data, helping parties make smart decisions about settling things without going to court.⁶
4. **E- Negotiation and Emergency Arbitration:-** These types are also recognised as Emerging trends in ADR. E- Negotiation includes electronic platforms for negotiation and Emergency Arbitration includes speedy resolution of disputes instead of formal Arbitration. Emergency Arbitration focuses on quickly resolving disputes instead of going through the formal arbitration process. During the Covid-19 pandemic in India, there was a high demand for urgent resolution of ADR cases. This led to the emergence of emergency arbitration, where arbitrators handle cases that need immediate attention.⁷

Blockchain technology/ Smart Contracts and ADR:-

Alternative Dispute Resolution is like a tree, which has many branches used to tackle with different conflicts. Online Dispute Resolution is one of the branch , tackle with online . One of the other branch is Blockchain Dispute Resolution, so let's explore this side of Alternative Dispute Resolution.

ADR in a Nutshell: ADR is a fancy term for finding peaceful solutions without going to court. It's like choosing a calm discussion over a big legal battle, saving time and hassle. It is solution without the lengthy proceedings of court.

2. **ODR:** – Taking ADR Online: Now, taking that calm discussion online. ODR is doing exactly that – resolving issues through emails or video calls instead of meeting face-to-face. It's mainly used at the time of Covid-19 pandemic.

⁶ Pankhuri Bhatnagar, The Role of AI in ADR, (Bn'W, 2020), <https://bnwjournals.com/2020/09/06/the-role-of-artificial-intelligence-in-alternative-dispute-resolution/>. , 14April,2024, 5:41 PM.

⁷ Diya Saraswat, Historical evolution of ADR and Emerging trends in today's Corporate world, (Legal Services India), <https://www.legalserviceindia.com/legal/article-13036-historical-evolution-of-adr-in-india-and-emerging-trends-in-adr-in-today-s-corporate-world.html>. , 14April, 2024, 5:42 PM.

3. **BDR**:- The Online Referee: BDR is like adding a wise referee to the online discussion. It uses Blockchain technology, which is the genius behind secure digital transactions like Bitcoin. The role of Blockchain Dispute Resolution (BDR) in Alternative Dispute Resolution (ADR) is to provide a secure, transparent, and efficient platform for resolving disputes. BDR plays a crucial role in modernizing and improving the efficiency and security of the dispute resolution process within the framework of ADR.⁸

What is blockchain:- Blockchain is like a digital register maintaining a record of blocks and every block has a different code. Blockchain comes in the 1990s when the research was started but actually implemented in 2009. Blockchain is a decentralized technology that records transactions across a network of computers. It ensures transparency and security by creating a chain of blocks, each containing a list of transactions. Blockchain Technology is very famous in nowadays, from cryptocurrency to smart contracts , blockchain technology is new concept in ADR.⁹

Blockchain technology brings several advantages to Alternative Dispute Resolution (ADR), enhancing transparency, efficiency, and security in the resolution process. Here are key advantages:

- **.Immutability and Tamper-Resistance:** Blockchain creates an unchangeable and tamper-resistant record of transactions. Once information is added to the blockchain, it cannot be altered, providing a secure and reliable history of events. So it gives a new change to paper work.

⁸ Snegapriya V S , Blockchain Dispute Resolution- Use of Blockchain Technology in ADR, (Law Corner.in, 2022), <https://lawcorner.in/blockchain-dispute-resolution-use-of-blockchain-technology-in-adr/>., 14 April,2024, 5:44 PM.

⁹ Tannu, Blockchain Cryptocurrency (Bitcoin) Relates with IPR, (Abhidhvaj law journal, 2023), <https://www.abhidhvajlawjournal.com/blockchain-cryptocurrency-bitcoin-relates-with-ipr/>., 14 April, 2024, 5:45 PM.

- **Decentralization:** Unlike traditional centralized systems, blockchain operates on a decentralized network. This eliminates the need for a central authority, ensuring trust among parties those involved in the dispute.
- **Transparency:** All participants in the blockchain network have access to the same information. This transparency reduces disputes arising from misunderstandings or discrepancies in records and also reduce chance of confusion.
- **Smart Contracts Automation:** Smart contracts, powered by blockchain, automate the execution of agreements. They automatically enforce predefined terms when specific conditions are met, streamlining and expediting the resolution process.
- **Security of Data:** Blockchain uses advanced cryptographic techniques to secure data. This ensures that the information stored on the blockchain is highly secure and ensure not to be used in wrong way.
- **Efficiency and Speed:** Blockchain enables faster and more efficient transactions. In ADR, this translates to quicker dispute resolution processes, reducing the time and resources spent on lengthy legal court proceedings.
- **Global Accessibility:** Blockchain operates on a global scale, allowing parties from different locations to participate in ADR processes seamlessly. This accessibility can be particularly beneficial for international disputes. It mainly settle the dispute people's between different jurisdictions.
- **Cost Reduction:** By automating processes and reducing the need for intermediaries, blockchain technology can contribute to cost savings in ADR. This is especially relevant when compared to traditional legal proceedings.
- **Enhanced Trust:** The decentralized and transparent nature of blockchain builds trust among parties involved in dispute resolution. Each party can rely on the integrity of the information stored on the blockchain.
- **Decentralized Consensus:** Blockchain relies on a consensus mechanism where all participants agree on the validity of transactions. This democratic approach ensures that decisions in the resolution process are made collectively, increasing the legitimacy of the outcome.

Smart Contracts: A Digital Mediator:- Introducing Smart Contracts Smart contracts are like digital agreements with a brain. They automatically execute and enforce predefined terms when certain conditions are met. In ADR, this means agreements can be self-executing, reducing the need for intermediaries.¹⁰

Conclusion:- In nutshell , Think of resolving arguments like getting a cool upgrade. With blockchain, it's like using a super smart tool to make things faster and fairer. Blockchain technology offers a changing impact on ADR by providing a secure, transparent, and safe framework for dispute resolution. Using blockchain for dispute resolution is like switching from a regular board game to a super cool, fair, and fast game. In short, Alternative Dispute Resolution (ADR) is changing for the better with new trends like Online Dispute Resolution (ODR), combining mediation and arbitration, using AI, and integrating Blockchain technology. ODR is like solving problems online, which is handy and saves time and money. Hybrid ADR mixes talking it out with having someone make a decision, giving parties flexible options. AI helps out by being a smart assistant, making things easier and fairer.

¹⁰ Blockchain Dispute Resolution- Use of Blockchain Technology in ADR , (Legal 60 Law News Aggregator , 2020), <https://legal60.com/blockchain-dispute-resolution-use-of-blockchain-technology-in-adr/>. , 14 April, 2024, 5:46 PM.

