



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2025

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

RESOLVING DISPUTES BEYOND THE COURTROOM: THE RISE OF ADR IN INDIA

- *Ayushi Malhotra*

INTRODUCTION

“Arbitration is a useful tool, and it is an appropriate time to promote it.” The Indian judiciary has been posing a challenge to the legal system, as it has long been overburdened by delays, inefficient resources, and overwhelming case backlogs. Timely and speedy justice is a keystone of public trust in the legal system, which has been eroded, displaying the reality that “justice delayed” is often justice denied. As quoted by Senior Advocate Firoze Andhyarujina in his recent seminar on *“Emerging trends in international arbitration,”* he shed light on the fact that arbitration has been rising in prominence due to its efficiency, flexibility, and impartiality in its nature. This article throws light on ADR and its essential components, the need for ADR in modernising India’s legal landscape, along with the constitutional and legislative framework.

Understanding Alternative Dispute Resolution (ADR)

Disagreements continue all around, from business conflicts to neighbour conflicts. However, dragging it to the court often results in delay, financial stress, and emotional agony. Therefore, the judicial process provides a second route that consists of Negotiation, Mediation, and Arbitration, all collectively known as ADR. ADR allows parties to resolve disagreements without full-fledged litigation, which may save time and money.

According to Black's Law Dictionary, arbitration refers to "a special procedure for settling a dispute by means an alternative to litigation, such as arbitration or mediation."¹ ADR is not new; its inception also traces to the times of the presence of community elders and tribal chiefs who informally resolved issues in their communities.² In the modern era, ADR gained popularity as an accepted legal process that was acknowledged throughout the globe and was legislated under various enactments, such as the Arbitration and Conciliation Act, 1996³.⁴ It is aimed at offering parties a framework that centres on efficiency, cost-saving, and adaptability across to the traditional judicial system.⁵ Therefore, this dispute resolution system encourages system of communication and collaborative problem solving, with a focus on a restorative rather than adversary framework.

Negotiation: Collaborative Resolution Amid Power Imbalances.

Negotiation can be described as a form of direct or indirect communication without the interference of any third party, involving the identification of mutual objectives, the search for solutions, and a cooperative stance.⁶ From a critical perspective, negotiation's dependence on voluntary agreement results in weaker parties being at a disadvantage because of power inequalities that exist. It promotes communication and understanding between parties, enabling them to have lasting relationships while helping avoid the hostile environment of litigation. However, negotiation success also significantly depends on the cooperation of all parties to negotiate in good faith and communicate effectively. Nonetheless, it is an important instrument for cooperation.

Mediation: Voluntary Solutions with Reliance on Cooperation

Mediation is a process that allows communicating between the parties in conflict to reach a mutually agreed solution of their own free will, informally and voluntarily, with the assistance

¹ Dr. Caesar Roy, *Alternative Dispute Resolution and Its Mechanism: A Critical Analysis in the Light of Access to Justice in India*, 4 Int'l J. Crim., Common & Statutory L. 25, 26 (2024).

² Faisal Younas, *Alternative Dispute Resolution (ADR) Future of Justice System*, 3 Int'l J.L. & Pol'y, 33, 36 (2025).

³ The Arbitration and Conciliation Act, No. 26 of 1996, § 5, India Code (1996), Part I, <http://indiacode.nic.in>

⁴ Mendiratta, *Arbitration and Conciliation Act, 1996*, ipleaders (June 9, 2022), <https://blog.ipleaders.in/arbitration-and-conciliation-act-1996/>

⁵ Aishwarya Agrawal, *What Is Arbitration?*, Law Bhoomi (Dec. 20, 2024), <https://lawbhoomi.com/what-is-arbitration/>

⁶ Geetika Kaushik, *Negotiation in the mode of ADR*, ipleaders (Dec. 16, 2023), <https://blog.ipleaders.in/negotiation-as-a-mode-of-adr/>.

of a neutral third party known as the mediator. ⁷As opposed to a judge who makes a ruling according to legal rules, the mediator reveals underlying issues, facilitates effective communication between parties, encourages cooperation, and sustains relationships. Mediation has proved to be appropriate in family, business, and work-related conflicts. A key limitation of mediation is that it fails when individuals refuse to make concessions, although it promotes voluntary action and maintaining a relationship, and is a significant tool in ADR.

Arbitration: Enforceable Resolution Despite Cost and Complexity

Arbitration is a confidential process for resolving disputes where the parties of the dispute consent to resolve differences outside the conventional legal framework. It needs a panel of unbiased arbitrators who examine evidence, listen to claims, and issue a binding judgment referred to as the arbitral award. The decision is legally enforceable and provides confidentiality and effectiveness over litigation. ⁸Arbitration has been helpful, especially in commercial, corporate, and international cases in which parties desire a neutral forum. An important concern to arbitration is that it becomes expensive, complicated, and even lacks transparency, which at times restricts its use among smaller parties. Despite these limitations, it remains a vital mechanism for disputes that need finality and enforceability.

Conciliation and Lok Adalats in Practice

Besides, several other ADR mechanisms exist, like that of conciliation and Lok Adalat. Conciliation entails a neutral third party (conciliator) who facilitates parties in negotiating differences and finding mutually agreeable solutions without imposing outcomes.

Lok Adalat, brought into existence by the Legal Services Authorities Act of 1987, offers a low-cost, easy, and informal forum to provide justice to economically marginalised people at their doorstep. These approaches may enhance accessibility to justice, but their success relies on voluntary compliance and the ability of facilitators.⁹

Judicial Backlog and the Need for ADR

⁷ Anveshka Kaushik, *Mediation as an effective ADR mechanism*, ipleaders (Feb. 8, 2023) <https://blog.ipleaders.in/mediation-meaning/>.

⁸ Aishwarya Agrawal, *What Is Arbitration?*, Law Bhoomi (Dec. 20, 2024) <https://lawbhoomi.com/what-is-arbitration/>.

⁹ Amit Singh, *Bridging Justice Paradigms: Lok Adalat and ADR Mechanisms*, 4 Int'l J. Crim. Common & Statutory L. 25, 26 (2024).

India's justice system still has a significant backlog with over 40 million outstanding cases, which have been in the process of getting resolved for decades.¹⁰ This reflects a pressing requirement for ADR as a result of the inherent inefficiency demonstrated by conventional litigation. Thus, with their ability to provide faster, more affordable, and less adversarial results, ADR takes pressure off courts and widens access to justice.

Impact and Success Stories of ADR

For example, as many as 97.64 lakh cases have been settled by Lok Adalats, consisting of 17.13 lakh pending and 80.5 lakh pre-litigation cases, for a settlement figure of about ₹7,077.84 crore.

¹¹ Similarly, Maharashtra State National Lok Adalat resolved more than seven lakh pre-litigation cases and over two lakh post-litigation cases, totalling more than 30 crore unpaid traffic challans.

On par with that, mediation has been effective in bringing about the resolution of conflicts. A campaign organised by the Karnataka State Legal Services Authority called "90 Days for the Nation" showed that during the campaign, 76,197 cases were sent to mediation, out of which 47,080 cases were accepted and 5,575 successfully settled, including long-standing matrimonial and civil disputes.¹²

Arbitration has become a powerful tool for settling disputes, and the Mumbai Centre for International Arbitration (MCIA) indicated a 48% rise in new cases for 2023–2024, with their combined worth totalling around USD 257 million, reflecting the reality that arbitration is an effective redressal mechanism.¹³

Constitutional Support and Judicial Endorsement

The following developments demonstrate how ADR mechanisms ease the burden on the judiciary while aligning with the Constitution's principles of delivering swift and affordable justice to all. As reflected in the India Constitution. art. 21 and art. 39A, the right to life and

¹⁰ R.V Raveendran†, *Justice Delivery Some Challenges and Solutions*, SCC online (Oct15,2022).

<https://www.sconline.com/blog/post/2022/10/15/justice-delivery-some-challenges-and-solutions/>.

¹¹ More than 97.64 Lakh Cases Settled in First National Lok Adalat of 2023: NALSA , THE ECONOMIC TIMES (Oct. 18, 2025)

<https://economictimes.indiatimes.com/news/india/more-than-97-64-lakh-cases-settled-in-first-national-lok-adalat-of-2023-nalsa/articleshow/97829554.cms>

¹² 5,575 Cases Resolved through Mediation: Judge, THE TIMES OF INDIA (Oct. 18, 2025).

<https://timesofindia.indiatimes.com/city/hubbali/5575-cases-resolved-through-mediation-judge/articleshow/124505979.cms>

¹³ Alison Ross, *Mumbai centre sees rise in "organic" cases*, globalarbitrationreview (Oct. 3, 2025),

<https://globalarbitrationreview.com/article/mumbai-centre-sees-rise-in-organic-cases>.

personal liberty, along with the mandate to ensure equal access to justice, emphasise the importance and effectiveness of ADR in the provision of fair dispute resolution. Article 21¹⁴, in its broader meaning, ensures the “right to life and liberty” and also the “right to free, timely, and impartial justice”. ADR embraces the same ideals in the provision of timely, affordable, and non-discriminatory mechanisms. Article 39A¹⁵ pertains to the right to equal access to justice and assistance in law, which also supports the cause of ADR in its inclusiveness and bridging the gap between the marginalized and the formal Judiciary.¹⁶

The Indian judiciary has demonstrated a dedication to the advantages of alternative dispute resolution (ADR) in the specific areas of speed and cost, particularly in the resolution of disputes. The Supreme Court has reiterated time and again the need to uphold arbitration agreements and facilitate Alternative Dispute Resolution (ADR). In the matter of *Booz Allen & Hamilton v. SBI Home Finance*¹⁷. The ruling highlighted that the parties should be referred to arbitration if so agreed upon. The court has reaffirmed previously in judgments such as *Bharat Aluminium v Kaiser Aluminium Technical Service*¹⁸, Inc. and *BCCI v Kochi Cricket Pvt.Ltd*¹⁹ is to encourage arbitration and minimal court interference, and uphold the party autonomy. Together, these decisions serve to express the endorsement of the judiciary for ADR as a constitutional mechanism to mitigate delays in dispute resolution.

Statutory and Regulatory Framework of ADR in India

India's ADR framework is based on several statutory and regulatory frameworks that provide credibility, structure, and are further binding. The first comprehensive law that was enacted was the Arbitration Act, 1940, which was later amended, and it led to the establishment of the Arbitration and Conciliation Act, 1996, which was based on the UNCITRAL Model Law.²⁰ It aimed to deal with domestic, commercial, and international arbitration disputes, acknowledging that arbitral awards are legally binding and enforceable²¹. The establishment of the Legal Services Authorities Act, 1987, specifically deals with disputes concerning public

¹⁴ *India Const. art. 21.*

¹⁵ *India Const. art. 39A.*

¹⁶ Deeksha Chhipa, *THE ROLE OF ALTERNATIVE DISPUTE RESOLUTION IN INDIAN LITIGATION*, Vintage Legal <https://www.vintagelegalvl.com/post/the-role-of-alternative-dispute-resolution-in-indian-litigation>.

¹⁷ *Booz Allen & Hamilton Inc. v. SBI Home Fin. Ltd.*, (2011) 5 SCC 532

¹⁸ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Servs., Inc.*, (2012) 9 S.C.C. 552

¹⁹ *BCCI v. Kochi Cricket Pvt. Ltd.*, (2018) 6 S.C.C. 287

²⁰ Anushka Sharma, *Alternative Dispute Resolution (A.D.R.) in India and its Application*, nayalegal <https://www.nayalegal.com/alternative-dispute-resolution-adr-in-india-and-its-application>.

²¹ Monesh Mendiratta, *Arbitration and Conciliation Act, 1996*, ipleaders (June 9, 2022), <https://blog.ipleaders.in/arbitration-and-conciliation-act-1996/>.

utility services by providing aid to the financially marginalised society.²² Sections 89 and Order X of the Civil Procedure Code, 1908²³, were introduced to settle disputes between parties amicably and peacefully through arbitration. The recent development of the Mediation Act, 2023, regards this as a preferred method to resolve disputes and promotes online mediation as cost-effective. It provides a dedicated framework for mediation, including institutional setups, certification of mediators, timelines, and enforceability of settlement agreements²⁴. Alongside these statutes, institutional mechanisms such as the Mumbai Centre for International Arbitration (MCIA), Karnataka Mediation Centre, and the Indian Council of Arbitration help in creating independent and autonomous international arbitration systems.²⁵ With the revolutionisation of technology, a number of Online Dispute Resolution (ODR) platforms like Sama and Presolv360 have become accessible, along with the introduction of platforms by NITI Aayog, such as the ODR Handbook in 2021.²⁶ Taken together, these legislative, institutional, and technological developments indicate India's enthusiasm to anchor ADR within a broader constitutional and judicial framework.

CONCLUSION

Alternative Dispute Resolution (ADR) has become an integral pillar of India's quest for timely and inexpensive justice, befitting the constitutional principles and international norms. Beyond decreasing the burden on the judiciary, it also advances a participative and reparative paradigm of justice. Yet, in spite of remarkable legislative and institutional advances, challenges remain, consisting of a lack of awareness, a lack of infrastructure, a shortage of trained mediators and arbitrators, and sporadic judicial intervention obstructing autonomy. Furthermore, unequal bargaining between the parties and the limited mechanisms to enforce the results in some ADR mechanisms inhibit universal acceptance. Public confidence building and uniformity in the application of the Mediation Act and the proliferation of digital ADR platforms are the way to overcome these impediments. Finally, ADR is an instrument of transformation well suited to

²² Dr. Amit Singh & Praveen Singh Chauhan, Bridging Justice Paradigms: Lok Adalat and ADR Mechanisms, 4 Int'l J. Crim., Common & Statutory L. 9, 11 (2022).

²³ Code of civil procedure, C.P.C. § 89 (LexisNexis 1908).

²⁴ *key-provisions-of-the-mediation-act-2023*, saakshyalaw (May 22, 2024), <https://www.saakshyalaw.com/post/key-provisions-of-the-mediation-act-2023>.

²⁵ In-Depth: *Reduction in Pendency of Cases & Arbitration*, dristiias (June 6, 2024), <https://www.dristiias.com/loksabha-rajyasabha-discussions/in-depth-reduction-in-pendency-of-cases-arbitration>.

²⁶ Kashvi Shrey, *Arbitration 2.0: Is India Ready for Online Justice?*, ccadr.cnl.u.ac <https://ccadr.cnl.u.ac.in/blog/arbitration/arbitration-2-0-india-online-justice/>.

reimagine India's system of dispute resolution, closing the distance between accessibility and efficiency and realising the potential of justice that is quick, fair, and inclusive.