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Role of ADR in India

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Introduction

In a country where justice commonly faces delay from systemic overload. The legal system in India bore a backlog of over **5 crore pending cases** as per **the National Judicial Data Grid** annual report, 2025¹. Such an inexorable backlog also retards the general populace's confidence in the justice system and costs those seeking speedy justice financially and swiftly. Given such a bleak backdrop before us, ADR stands out as a recognized alternative, fast and innovative. ADR can offer justice in weeks-the shortening of the procedure, less adversarial nature, and an accessibility-are all in its favour. Its ever-growing role indicates a colossal change in India's legal thinking-from conflict to solution.

What is Alternate Dispute Resolution (ADR)?

ADR refers to the varied range of dispute settlement methods through which the parties get aid in resolving the disputes and come to a reasonable conclusion with mutual consensus without going to the court, or getting involved into litigation on the matters. In many disputes, litigation process can be used along with the ADR methods with prior court authorization. It is noted that in the disputes related to civil, commercial or industrial etc., where the litigation cannot be initiated by the parties, ADR is aiding to resolve such matters effectively in terms of monetary and procedural aspect. The methods of ADR facilitate the people and a group to maintain co-operation, social order and aims to eliminate belligerence.

¹ https://njdg.ecourts.gov.in/njdg_v3/

(Placeholder1) Importance of ADR in India

The foundational idea of ADR lies upon the fundamental rights ,guaranteed by the Indian constitution. **Article 14** and **21** deals with the ‘Equality before law’and ‘Right to life’ and ‘Personal liberty’ respectively. Moreover, the **222nd Report of the Law Commission**² of India, mentions “**Access to justice**” for all irrespective of their caste, religion, gender, or race, essentially the **Article 39A** states that everyone must have an equal opportunity of getting justice and this must not be denied to any citizen by any sort of disabilities.

India being a developing country faces issues like poverty, illiteracy, ignorance, social and political backwardness and various others. All these undermines the ‘**access to justice**’ for the common masses in the country, which is also mentioned in the **222nd report**.

Due to lack of awareness and poverty, people often think they have to pay hefty amounts to the lawyers to fight the long battles of the court rooms, when their legal rights get violated. Consequently, they consider the courts’ procedures to be inconvenience.

Legal provisions for ADR

The Arbitration Act of 1940 repealed the **Arbitration Act of 1899** and certain sections of the **Civil Procedure Code (CPC), 1908**, so as to become the central arbitration law in India until the passing of **the Arbitration and Conciliation Act, 1996**, which conformed to international standards. The CPC amendment of 1976 brought into existence laws related to the settlement of family disputes. The **Special Marriage Act, 1954**, and the **Hindu Marriage Act, 1955**, provided for reconciliation. **The Family Courts Act, 1984**, mandated the courts to work toward settlement. The **Legal Services Authorities Act of 1987** statutorily recognized Lok Adalats, and they were first conducted in 1982. A special mark of advancement came through the insertion of **Section 89** in the **CPC** by way of the 1999 amendment for fostering court-referred ADR mechanisms.

Key Benefits of ADR

1.Time-Saving: ADR processes like mediation and arbitration function at a comparatively faster pace than litigation, ensuring parties to resolve their disputes promptly.

² https://lawcommissionofindia.nic.in/cat_arbitration/

2. **Cost-Effective:** avoids most of the procedural trappings, including the legal fees that are associated with trials in courts, thereby making it a cheaper alternative.
3. **Confidential:** ADR proceedings are private, thus ensuring that the information remains secret and that the reputation of the parties is safeguarded.
4. **Flexibility:** It allows for procedures that can be fine-tuned to the needs of the parties, giving the parties greater control of the process and its set outcomes.
5. **Relationship Preservation:** Through cooperative dialogue, ADR sustains personal, business, or professional relationships.
6. **Technical Expert-Decision Makers:** In arbitration, the parties may select arbitrators who are experts in the particular subject matter, resulting in well-informed and technically sound decisions.
7. **Reduced Burden on Courts:** It reduces the case load in the judiciary, facilitating faster access to justice across the board.

Different types of ADR Mechanisms in India

1. **Arbitration:** It facilitates the disputed parties to resolve the matter out of the court settlements through the arbitrator(s), who is appointed by the concerned parties. This mode involves role of a neutral third party, whose decision after the perusal of the facts, will be known as 'Arbitration Award'. The nature of this method is private, nonjudicial and mostly informal trial. The three prerequisites are:
 - i. An agreement between the parties (2 or more)
 - ii. A dispute or disputes
 - iii. An arbitrator (third party)

An arbitration award is subjected to appeal and review but for limited duration and is legally binding on both the parties.

2. **Mediation:** Another mode of resolving hostility among the parties with the aid of a mediator. This process facilitates the parties with an opportunity to negotiate and find various other ways to make practical resolution assisted by the mediator. The role of Mediator is to act like a neutral third party, similar to arbitration, unlike his decision is

non-binding rather he provides amicable strategies to reach to the settlement outside the court. The following stages are involved:

- i. Opening statement
- ii. Joint session with both the parties
- iii. Separate session with one party and,
- iv. Closing

The pivot role of the mediator is to ensure negotiation, communication and look for different ways of settlement further assessing the feasibility. The parties are free to walk away without making any choice if neither of them likes the settlement provided.

3. **Lok Adalat**: It is also known as People's court, were formally recognized by the **Legal Services Authorities Act of 1987**. Lok Adalats, granted civil court powers under the **Civil Procedure Code in 1908**. Their decisions hold the same value as a civil court decree and are final and binding. Disputes—either pre-litigation or pending in court—can be referred to Lok Adalats through **the State or District Legal Services Authorities** for amicable settlement.

4. **Judicial Settlement** : As mentioned under Section 89 of the Civil Procedure Code can also be utilized as a means of alternative dispute resolution. Indeed, no hard and fast rule has been established for such an alternative mode of settlement. The phrase Judicial Settlement, on the other hand, is defined under Section 89 of the Code. Of course, the Legal Services Authorities Act, 1987 will apply if there is a Judicial Settlement.

Scope and Development of ADR

To escape from the tiresome litigation process, people are adopting ADR for its amicable and expeditious nature. It is not intended to act as a supplant of litigation but provides alternative

modes to dispute resolution and helps in building a better relation between the parties. The **Law Commission of India** stated explicitly in its **14th Report**³ that the delay is due to the non-observance of many of the legislation's critical provisions, particularly those intended to expedite the disposition of proceedings. Thus, ADR can be proven an efficient and potent method.

The ongoing development can be seen through various new provisions and amendments such as the **India International Arbitration Centre Act, 2019**, was enacted to provide for the establishment and incorporation of India International Arbitration Centre (Centre) for the purpose of creating an independent, autonomous and world class body for facilitating institutional arbitration. **The Mediation Act, 2023**, lays down the legislative framework for mediation to be adopted by disputing parties, especially institutional mediation where various stakeholders have been identified to establish a robust mediation system in India. Considering the stark increase in online cross border transactions creating disputes on top of it further led to the emergence of **ODR (Online Dispute Redressal)** , as stated by the **NITI Aayog**⁴ “ODR is a paradigm shift rather than just an addition to the current system since it acknowledges the need for technologically advanced solutions in order to modernize dispute resolution.”

Conclusion

The inefficient and bothersome justice delivery in the courts is the most prevalent belief of the massive population thus the development of the arbitration in India is the need of the hour so that its application aid in diminishing the judicial burden with legal and procedural complexities.. Thus, the principle of “**access to justice**” will be restored while creating awareness among the citizens. However people in India still rely a lot on litigation or in court proceedings but by creating awareness especially amongst the marginalized sections.Improved guidelines will serve the objective of ADR constructively.

³ Dr. Justice V.S. Malimath Report,

⁴ <https://nliulawreview.nliu.ac.in/blog/revolutionizing-justice-niti-aayogs-odr-blueprint-for-india/>