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THE ROLE OF ALTERNATIVE DISPUTE RESOLUTION IN REDUCING JUDICIAL BACKLOG IN INDIA

-Sneha Gupta

ABSTRACT:

Justice delayed is said to be justice denied. This is indeed the position of millions of pending cases in various forums in India. With increasing population, commercial activities and consequent disputes, the burden on the court system has become enormous. In such a scenario, Alternative Dispute Resolution mechanisms (ADR) present a feasible solution. ADR, comprising arbitration, mediation, conciliation, negotiation etc., are modes of dispute resolution which are more flexible, expeditious and economical. Laws such as the Code of Civil Procedure, 1908 (Section 89), Arbitration and Conciliation Act, 1996 and the Mediation Act, 2023 have been enacted to facilitate ADR processes. This article attempts to highlight how ADR helps in decongesting the judicial system and also discusses certain lacunae in the present framework while suggesting measures for improvement.

INTRODUCTION:

Every year, India witnesses lakhs of new cases filed while many old cases remain pending which has become one of the biggest challenges in the Indian judiciary system. The delay in justice not only increases the cost of litigation but also damages the faith of people in the system.

ADR provides solutions to this problem by giving alternatives to the litigants to solve the dispute amicably instead of going through the tedious process of litigation. It aims at establishing settlements and negotiations to resolve the disputes in a friendly and effective manner. Moreover, in modern times, ADR is not seen as an option to justice but rather a necessity. With the latest amendments and judicial support, ADR is now playing an important

role in decongesting the Indian judiciary system as well as delivering faster justice to the citizens of India.

OVERVIEW:

Alternative Dispute Resolution (ADR) means dispute resolution processes that do not involve adjudication in the court of law by a judge. Arbitration, mediation, conciliation, and negotiation are the four types of ADR. Arbitration, on the other hand, is a process in which a mutually agreed independent party called an arbitrator decides on the disputes between the involved parties. In contrast, mediation and conciliation are processes in which the involved parties are assisted to reach a voluntary agreement that settles the dispute.

ADR has gained ground over time in Indian legal jurisdiction. For instance, Section 89 of Code of Civil Procedure, 1908 permits a civil court to refer some disputes to other dispute resolution methods where there is a possibility for amicable settlement. The Arbitration and Conciliation Act, 1996 governs arbitration and conciliation in India and makes them a part of the civil procedure code by giving arbitration proceedings the force of law as per international conventions. Recently, the Indian Parliament passed the Mediation Act 2023 which provides a legal framework for institutional mediation in India, illustrating India's interest in promoting mediation in dispute resolution.

Moreover, the Indian judiciary has been promoting and directing the usage of ADR mechanisms. For example, in *Salem Advocate Bar Association v. Union of India*¹, the Supreme Court mentioned that Section 89 of the Code of Civil Procedure needs to be utilized to expedite justice. On the other hand, in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*² the Supreme Court laid down the law regarding referring disputes to ADR.

ADR AS A TOOL FOR REDUCING JUDICIAL BACKLOG IN INDIA:

ADR is important not only because it helps in resolving disputes but also because it brings in novel ways of delivering justice. Litigation has become very cumbersome, time-consuming and expensive due to multiplicity of issues involved in litigation and procedures which need to be followed. ADR helps in addressing these problems as it provides for more simple and flexible procedures to resolve disputes.

¹ *Salem Advocate Bar Ass'n v. Union of India*, (2005) 6 S.C.C. 344.

² *Afcons Infrastructure Ltd. v. Cherian Varkey Constr. Co. (P) Ltd.*, (2010) 8 S.C.C. 24.

ADR helps in decongesting the court calendars as there are a lot of disputes which do not require going through the lengthy process of litigation. Matters such as family disputes, commercial disputes, consumer disputes, neighbour disputes etc. can be resolved easily by means of Conciliation/Mediation. By doing so, the time which would have been spent by the courts on such cases can be utilized in hearing and deciding Constitutional issues and Serious criminal cases³.

Mediation is a wonderful institution which provides for a positive approach to dispute resolution. It endeavours to bring about settlement amicably which is absent in cases where litigation is resorted to wherein one party wins while the other loses. Mediation is especially good in cases of matrimonial disputes, partition suits, disputes between landlord and tenant, commercial disputes where relations between the parties have to be maintained so as to continue with future dealings.

It is heartening to note that the Indian Parliament has also taken note of the importance of mediation and has enacted The Mediation Act, 2023 to give statutory legitimacy to mediation, mediation agreements, and pre-litigation mediation in specific matters. This is a step in the right direction wherein mediation has been given a credible status and is expected to gain ground⁴.

Similarly, Arbitration has also gained momentum, especially in commercial cases as parties prefer this method due to the confidentiality it offers, flexibility in procedure, faster resolution compare to conventional litigation process. The Arbitration and Conciliation Act, 1996 along with subsequent amendments has helped in putting in place an efficient framework for arbitration and India is now positioning itself as a hub for arbitration⁵. Efficient arbitration not only helps in decongesting the commercial courts but is also a step towards making India a business friendly nation.

ADR, as discussed above, has its own advantages over litigation but it has to be borne in mind that certain disputes such as those of criminal nature and those which involve adjudication of Constitutional issues cannot be resolved by ADR mechanisms. Thus, ADR is only a co-complementary measure to litigation and not a substitute to it. In order to have efficient dispute

³ Shashwat Gupta, *Effectiveness of ADR in Reducing Judicial Backlog in India*, 7 Int'l J. for Multidisciplinary Rsch., no. 4, 2025, <https://www.ijfmr.com/papers/2025/4/50912.pdf>

⁴ Mediation Act, 2023, No. 32, Acts of Parliament, 2023 (India).

⁵ Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India).

resolution mechanisms, it is important to have efficient courts and ADR institutions which can work in tandem.

Though ADR has had its own success stories, there is still a long way to go for it to gain the credibility and acceptance it deserves. One of the main hurdles in the way of ADR being the preferred choice for dispute resolution is the general public's perception that a dispute can only be resolved by approaching Courts and getting a judgement passed against the opposite party. Hence, the first step for popularizing ADR is educating the public about its advantages over litigation.

Another concern is the establishment of mediation and arbitration centres throughout the country. The facilities for mediation/arbitration are only available in bigger cities while mediation/arbitration is not an option for people in smaller towns who have to approach the Courts. Moreover, there has to be uniformity in the law relating to ADR so that there is some consistency in how mediation/arbitration is conducted across the country. At times, there are delays in execution of arbitral awards as well as unnecessary judicial interventions in arbitration proceedings which defeats the very purpose of ADR. The Supreme Court has consistently held that as far as arbitration is concerned the courts should intervene only to the extent provided in the arbitration statutes so that arbitration remains an effective dispute resolution mechanism⁶.

Lok Adalats have also been very effective in not only decongesting the court calendars but also in helping in resolving disputes amicably. Under the Legal Services Authorities Act, 1987 Lok Adalats have been assigned the responsibility to settle a number of disputes including Motor Accident claims, Bank claims, disputes relating to public utility services, matrimonial disputes etc.⁷ Through Lok Adalats, a lot of disputes are being resolved through mutual settlement of the parties involved. Thus, if more and more people take advantage of Lok Adalats, a lot of time can be saved in resolution of disputes as compared to if they went to the regular Courts.

Thus, it is important to promote ADR amongst the public as well as amongst the Advocates as the popularity and credibility of ADR mechanisms depend upon people's inclination towards them and the faith they have in the legitimacy of the awards/settlements arrived by ADR Institutions.

⁶ *Vidya Drolia v. Durga Trading Corp.*, (2021) 2 S.C.C. 1.

⁷ Legal Services Authorities Act, 1987, No. 39, Acts of Parliament, 1987 (India).

RECOMMENDATIONS:

India has taken significant strides in terms of legislation and institutional mechanisms for Alternate Dispute Resolution (ADR). However, for its effective implementation and people's participation it is required to take some initiatives. First and foremost, it is essential to create awareness about ADR among people and make them familiar with modes like arbitration, conciliation, mediation, negotiation and Lok Adalats. Organizing legal literacy camps by National Legal Services Authority (NALSA), State Legal Services Authorities, institutions and Bar Councils can make people aware of benefits of ADR mechanism and make them adopt these methods for dispute settlement instead of going to courtrooms.

In addition, it is important to setup mediation centers at all districts equipped with infrastructure and professional mediators. Conducting training programs and workshops on a regular basis will ensure maintenance of standard levels of mediation practices across the board. Moreover, competent mediators can help in quicker resolutions of disputes, which would lower down the workload of the Indian judiciary.

Secondly, the judiciary must promote and motivate parties to resort to pre-litigation mediation, especially in cases of civil, commercial, family and consumer disputes, where disputes can be amicably resolved.

Lastly, it is also important to focus on newer techniques like online dispute resolution methods and video conferencing which can help in effective disposal of disputes, especially when the parties are not situated in the same city or country. These methods will make dispute resolution more efficient, economical and time saving for the parties involved and would serve the purpose of faster justice delivery mechanism for quicker redressal mechanism of disputes and would meet the requirements of a modern state.

CONCLUSION:

With the number of pending cases in Indian courts witnessing an alarming rise, the need of the hour is a practical and sustainable solution. In this regard, Alternative Dispute Resolution (ADR) has proved itself to be a veritable means for expeditious and economical resolution of disputes. By advocating conciliation, arbitration, mediation and Lok Adalats, ADR encourages a spirit of cooperation in place of competition and helps in reducing the huge burden on the courts of law.

While the recent Mediation Act 2023 shows India's commitment towards this issue, it will be important to take further strides and bolster the people's awareness. ADR mechanisms can be successful only with increased institutional support as well as human resources. The judiciary must encourage ADR not as an alternative to the formal justice delivery system, but as an integral and vital part of it. This is the only way to ensure speedy, economical justice for all.