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**ROLE OF ALTERNATIVE DISPUTE RESOLUTION (ADR) IN SPEEDY  
JUSTICE DELIVERY SYSTEM**

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**ABSTRACT**

Any efficient justice system demands that firstly outcomes must be obtained and secondly, results are given out with efficiency. However, the presently known facilities for the judicial system aren't sufficient to address the increasing conflict inside a fair timeframe. Therefore, stakeholders must be urged to rely on ADR techniques to ensure that a lesser number of major conflicts that require the court's consideration are left to the appropriate judicial processes. Delays and Expenses are two of the bigger problems that we face in this period, and solving them would be a big deal. We then go further and expand our horizons by making some notable observations and various precedent cases from a number of countries. A good example of how ADR has triumphed in our country is in the form of Lok Adalat. There are numerous benefits that these ADR mechanisms include and, in the end, we see why this should be our way going forward.

**Keywords:** Justice, ADR, Dispute Resolution.

**INTRODUCTION**

“There really can be no peace without justice. There can be no justice without truth. And there can be no truth unless someone rises up to tell you the truth.” – Louis Farrakhan

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Now, someone won't be able to stand up against the atrocities, rise to tell the truth unless he or she gets the right medium to showcase their resentment otherwise it becomes a waste, and the more amount of delay is there, the more is justice being denied. The year of the latest pandemic was something that caught us all off-guard and it continues to impede on our recovery plans and the system of justice delivery is also dealing with the same. With the mandatory need to take up online cases due to Lockdowns and what-not, we had to cope up with the restrictions it brings.

Even with all the positives it carries, there still exists the negative side which includes that a large number of cases are not being heard that could've been heard had it been in the offline medium, but it is what it is. A lot of people are suffering because they don't know the proper channel to approach and when they indeed come to know, it is already late for them.

This is because the pandemic has hit almost everyone's income and when these people reach court, they realize the amount of time it will take for their case to even come up for hearing. Now, when they talk to their lawyer, which is only on a case-to-case basis for many people because they can't afford a full-time lawyer and being without the legal knowledge of the ADR mechanism, they suffer despite there being parallel approaches to get justice.

In the end, it simply boils down to the fact that they have to count their days down, or should I say years. The court is doing all that it could and we simply cannot put the blame squarely on them as the pandemic and the number of disputes is not their fault. They keep striving to show us the way despite being overworked and overloaded. Therefore, it is of utmost importance that the ADR mechanism is strengthened and proper distribution of its presence is put in the people's minds and there's an ease for them to approach the medium.

With nearly everything coming back to normal, we must continue to strive forward and improve our situation this time to save us from what challenges there may be in the future. Let's put the focus back on the ADR Mechanism and how we can ensure speedy justice in this new-normal.

### **JUSTICE – A FAR CRY?**

Justice is an integral pillar of all human life & wants. A desire for it has been the goal of humanity and was already pursued for centuries and for sure, will be for the years to come.

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The Preamble to our Constitution represents an ideal also including "religious, monetary and cultural justice." The Judicial process entails ensuring the defence of who has acted with innocence, proper prosecution of the person accused, and a reasonable dissolution of conflicts.<sup>1</sup>

It was correctly stated that any efficient justice structure demands that firstly, outcomes must be obtained and secondly, results be given out with efficiency. However, the presently known facilities for the judicial system aren't sufficient to address the increasing conflict inside a fair timeframe.

Notwithstanding the continued tries, an average citizen might indeed consider oneself stuck in the court procedures for seemingly an eternity. This wait might continue even after one dies & the burden would fall onto one's successors. One's resources might deplete till that moment, and that is apart from the possibility of one being harassed incessantly. Thus, this increases the need for something to supplement the daily procedures to deal with such issues.

In the year 1995, when the International Centre for Alternative Dispute Resolution was inaugurated by our Former Prime Minister, Mr. Rao had observed: Although changes throughout the judiciary field must be pursued with required pace, it doesn't seem likely that the various courts of our country would have the requisite capacity to shoulder the complete responsibility that falls upon the judiciary.

It's the responsibility of the State to have a fair price for several forms of problem resolution which are required to accommodate the range of conflicts that occur. Plaintiffs must be urged to rely on ADR techniques in order to ensure that a lesser number of major conflicts that require the court's consideration are decided to be left to the appropriate judicial process. Delays and Expenses are two of the bigger problems that we face in this period, and solving them would be a big deal.

### NOTABLE OBSERVATIONS

Justice Warren Burger of the American SC had said, "A cruel fact that contains the reality of today is that we might be on our path to a world overwhelmed by crowds of prosecutors,

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<sup>1</sup>S.B Sinha, "ADR and Access to Justice: Issues and Perspectives", *available at:* <http://www.tnsja.tn.gov.in/article/ADR-SBSinha.pdf> (Visited on Mar. 21, 2021).

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starving as locusts, and spans of jurors in proportions that have never been imagined earlier. The idea that the general public prefers jurors dressed in dark robes to be well-dressed attorneys, exquisitely panelled courthouses to become the place for settling their conflicts – isn't right. Individuals facing legalities, including those experiencing discomfort, seek help & desire that are accessible easily and as cheaply as it can be."

In the Punjab Bank case,<sup>2</sup> the SC's direction in ONGC,<sup>3</sup> to the govt. to establish a commission to oversee conflicts involving state agencies and other non-state mediums were approved. There was to be precise procedure envisaged is just to guarantee a situation where almost null conflict is brought in front of the SC or HC or other such forums without the stakeholders given the chance of conciliation before the actual proceedings.

ADR mechanisms have been extensively carried out even in the context of Lok Adalat. These have represented an excellent legal innovation and a crucial mechanism for something like a fast & effective resolution of conflicts. Benefit is revealed to be a fruitful and sustainable social necessity and obligation, a visitor tailored to the greater and better parts of the modern structure of our society.<sup>4</sup>

The big plus in arbitration would be that it blends power with versatility. Power since it generates implementable rulings and is supported by a legal system that may, as a last ditch-effort, rely on the repressive forces of the System. Versatile since this requires claimants to pick the approach that suits their essence of the conflict as well as the market sense where it takes place.

The best benefit of mediation is how the entire procedure is purely private. It improves the efficiency as well as the monetary and psychological burdens of settling a conflict, thus restoring confidence and understanding between the stakeholders. Numerous different benefits are as follows: Attention-centric procedures shall be applied as differentiated from the freedom-centric protocol established by the bench. Instincts and thoughts amongst individuals should be maintained, creating reduced tension and emotional pain. There's a chance to settle several conflicts at once.

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<sup>2</sup> Punjab & Sind Bank v. Allahabad Bank, (2006) 4 SCC 780.

<sup>3</sup> O.N.G.C v. Commissioner of Central Excise, (2004) 6 SCC 437.

<sup>4</sup> Supra note 1.

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The House of Lords in *Dunnett v. Railtrack*<sup>5</sup> had observed: "The support and facilitation of Arbitral proceedings with the help of a court in such a component of successful crisis intervention that when it does, its effect is indeed a component of fulfilling the ultimate goal. The stakeholders need to take up the responsibility to support the courts in achieving that goal and also have a responsibility to take sincerely the likelihood that Arbitration proceedings could be used for the intent of settling their claims or concrete concerns inside the courts, once permitted by them to act in such a manner."

The SC in *FCI v. Pal*<sup>6</sup> said that "The focus on Alternative method of dispute resolution by mediation, consultation, and negotiation is a new development in the field of the judicial process and has introduced about fundamental improvements in the rule of law. It will offer a good resolution of the conflict rather speedily even at a smaller expense than what is spent in normal proceedings."

Dr. A. S. Anand, former CJI, wishes that the coming time period shouldn't be a generation of court cases, but perhaps a generation of consultation, mediation, and conciliation. This hope must be accomplished for not only the resolution of cases lying in the court system but also for the pre-litigation phase.

### **ADVANTAGES TO CARRYING US FORWARD**

Long ago in our country, conflicts had been resolved by a committee of village elders recognized as the Panchayat. It was an established form of dispute mediation. From the prevalence of the Vedic period, our country has been a leader in achieving the public aim of the quick and efficient due process via flexible yet concluding conflict mechanisms. ADR techniques aren't a novice to the Indian sub-culture and were in operation in a certain way somehow in the times before the implementation of the new judicial process by British colonialists. Different kinds of arbitration mechanisms have been developed, contributed to the introduction of the famous Panchayati system in our country, particularly in remote areas. The judgments of the Panchayat have been approved and dealt with as binding on all the stakeholders.

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<sup>5</sup> *Dunnett v. Railtrack*, [2002] 2 All ER 850.

<sup>6</sup> *Food Corporation of India v. Joginder Pal*, (1989) 2 SCC 437.

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The passage of the CPA, 1986 and now the CPA, 2019 for the resolution of conflict was one more correct thing to do and was a strategy successfully implemented. The Act facilitates for accurate, affordable, quick, and expeditious resolution of consumer disputes which might not be able to be lodged normally.

In *Sitanna v. MarivadaViranna*,<sup>7</sup> the Privy Council sided with the ruling passed by a local panchayat, wherein there was a family matter dispute. Sir John Wallis, J. stated while being in the council that in relation to something like a Village council is an effective and quick form of settling conflicts such as one present here, which carries with it numerous plus points such as that it is reasonably easier for Panchayat days to determine the real facts & also it prevents long-standing disagreements that carry the possibility where it may have been disastrous to the house. Thinking logically overall, we find little cause to question that perhaps the judgment was a reasonable and truthful resolution of a dubious argument both on legally and morally stable backings, and there exists little or no reasoning to not side with it or over-rule it.

ADR approaches, in particular mediation and conciliation, don't just resolve the conflict, but also resolve the feelings surrounding the disagreement. In reality, for these approaches to be effective, then firstly the feelings and egos that arise between all stakeholders must also be discussed. When feelings and pride are objectively resolved, it transforms into a very straightforward situation to settle that conflict.

In *F.C.I v. Mohinderpal*,<sup>8</sup> the SC passed: “We must change the rule of these mechanisms to a clearer standard, less complex and much more accountable to the practical reality of the cases, but has to be attentive to both the doctrines of discrimination and unfair practice, and ensuring that perhaps the arbitration panel adheres to certain processes and standards that establish trust, not only through achieving justice but also through having a culture that bringing justice to people's convenience seems achieved.”

Private information and secrecy of the hearings are among the highly critical features of ADR mechanisms. Stakeholders sometimes tend to solve their conflict without the info going out in front of the eyes of the general people. It is especially useful in marital conflicts. Since

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<sup>7</sup> *Sitanna v. MarivadaViranna*, [1934] PC 105.

<sup>8</sup> *Food Corporation of India v. Joginder Pal*, (1989) 2 SCC 347.

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individuals don't desire their personal disagreements to appear before the media. Arbitration thus prevents conflicts in marital houses and relationships because their conflict is settled with mental satisfaction and peace of mind.

On several occasions, once disputes are taken before the conventional courts of law, the relationship gets tense and also sometimes the relationship as a whole, breaks down. Furthermore, several cases require extremely complex problems specialist, who in this area would prove more than helpful. Since, it's on the participant to the ADR methods that elects a judge of the panel, at minimum one representative of the professional opinion within this area is chosen. This might not happen in the conventional medium of our judicial workings.

In situations where the stakeholders involved belong to the various nations, they might not desire to have access to the regular judicial courts of any one country, but they can choose from the various ADR techniques since these methods provide the stakeholders with autonomy in the option of the statute, process, and panel.

The stakeholders can even select the rule and protocol of a foreign entity or nominate an arbitrator from a foreign state. This maintains the balance and gives a sense of fairness prevailing around the scenario and much better communication can be made.

The process gives justice to the constitutional right of Natural Justice as the person-in-charge, who has to conduct the proceedings, is not constrained by the rigid protocol set down in the CPC and the principle of evidence. It does, therefore obey the concept. It removes the semantic argument and complexities of the statute and relies on the issue of the stakeholders' issue and seeks to settle it by a straightforward system or process.

The comprehensive recognition and enforcement of the judgement is one more significant feature of the ADR tactics. Currently, there have been numerous treaties that accept and execute arbitration agreements across various nations. The stakeholders are also able to control the processes according to what suits them and thereby, playing their part in the result of the proceedings, which in turn grants mental satisfaction.

ADR mechanisms generally do not require a deposit of Legal fees even though it is charged in the conventional proceedings prior to the consideration of proceedings. If the trial payment isn't charged, the court will not take the decision. Perhaps the individuals may not be able to

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claim legal costs. Therefore, these mechanisms are the perfect destination for these kinds of individuals.

In these ways, the stakeholders know they might not lose everything they have got which might not be so in conventional proceedings, as there, it is a case of either win or loss, but through ADR, these individuals are still able to negotiate at least something in their favour which is a big plus. There is always an offering of a pro-active approach. Its application is designed as such that it becomes naturally better to have such an approach in practice.

## CONCLUSION

Everyone, except for petitioners who are expected to prosper by halting the judicial administration process, hates the procedure which drags on & on and makes you spend substantial sums of money. When there are better alternatives, even the citizen has to take care of our own country and participate in the judicial administration process in such a manner that benefits all and doesn't leave behind our country's brothers and sisters.

Martin Luther King once spoke in a gathering that "The banks of Justice shall not become bankrupt" which drives us to take sufficient and necessary measures, which will help us carry on that vision or else all the teachings he and other great leaders like Mahatma Gandhi, Nelson Mandela imparted to us would simply go to waste.

We have seen the situation and we have experienced the wrath of the pandemic, at least most parts of it and it has affected all of us differently. To only think about ourselves will only come back to haunt us in the long haul as such a mindset is not healthy for members of society. We all witnessed the atrocities that were royally bestowed upon the poor and the helpless, and they did not have the tools to carry on with life, let alone even look out for justice when they deserved it.

We are in the "New Normal" but things still seem to remain unchanged and it's surprising to see how slowly we are making progress, if even making so, despite there being high chances of experiencing more frequent pandemics of this scale in the future.

The Justice delivery system needs to be taken care of and leaving it just to the courts would tantamount to a crime in itself. Having such rich glory, traditions, and culture in our country

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is a boon for all of us, and we must take inspiration from the past to make our future even close to something we would want to take inspiration from.

As the populations and global warming both increases, there does not seem to be a way where the number of cases might lessen up, but diversifying the means to reach the end might prove to be useful for all of us.



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