

**ROLE OF ALTERNATIVE DISPUTE RESOLUTION (ADR) AS A
MECHANISM FOR ADMINISTRATION OF JUSTICE**

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Abstract

The Indian justice delivery system is presently facing a serious challenge due to the ever-increasing backlog of cases, procedural delays, and high costs of litigation, which often undermine the very objective of timely and effective justice. Prolonged court proceedings not only burden the judiciary but also discourage litigants from seeking legal remedies. In this context, Alternative Dispute Resolution (ADR) has emerged as a significant and practical mechanism for the administration of justice.

Alternative Dispute Resolution offers an effective framework for resolving disputes outside traditional courts through mechanisms such as arbitration, mediation, conciliation, and Lok Adalats. By emphasizing consensual settlement, procedural flexibility, confidentiality, and party participation, ADR ensures faster and more affordable justice while enhancing access for marginalized and economically weaker sections. This paper examines the role of ADR in the administration of justice in India, analyses its legal framework, and evaluates its contribution to reducing judicial backlog, improving efficiency, and preserving relationships. It also highlights key challenges in ADR implementation and stresses the need for greater awareness, institutional support, and professional training to strengthen ADR as a complementary justice mechanism.

Keywords

Alternative Dispute Resolution (ADR), Administration of Justice, Arbitration, Mediation, Conciliation, Lok Adalats, Access to Justice, Judicial Backlog, Speedy Justice, Cost-Effective Justice

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1. Introduction

The administration of justice is a fundamental function of any democratic society. In India, the judiciary plays a crucial role in upholding the rule of law and protecting citizens' rights.³ However, excessive delays, procedural complexities, and rising litigation costs have weakened public confidence in the traditional court system. As a result, Alternative Dispute Resolution (ADR) has gained importance as a supplementary and sometimes alternative mechanism for resolving disputes.

ADR provides a platform for resolving disputes amicably without resorting to prolonged litigation. It promotes cooperation, flexibility, and efficiency, making it an essential component of modern justice administration.⁴

2. Meaning and Concept of Alternative Dispute Resolution

Alternative Dispute Resolution refers to a set of processes used to resolve disputes outside the formal judicial framework. It involves neutral third parties who assist disputing parties in reaching a mutually acceptable solution. ADR emphasizes settlement rather than adjudication and is based on principles of consent, confidentiality, and fairness.⁵

ADR is not intended to replace courts entirely but to complement the judicial system by offering alternative avenues for dispute resolution.⁶

3. Forms of Alternative Dispute Resolution

3.1 Arbitration

Alternative Dispute Resolution consists of various mechanisms designed to resolve disputes outside the traditional judicial system. Each form of ADR has its own procedure, scope, and significance, depending on the nature of the dispute and the willingness of the parties involved.⁷

3.1 Arbitration

³Upendra Baxi, *The Crisis of the Indian Legal System* (Oxford University Press 1982).

⁴Marc Galanter, 'The Dispute Pyramid and the Role of Courts' (1981) 3 *Journal of Legal Pluralism* 1.

⁵Black's Law Dictionary (11th edn, Thomson Reuters 2019) 91.

⁶N. V. Paranjape, *Alternative Dispute Resolution* (2nd edn, Central Law Agency 2015).

⁷Gary B. Born, *International Commercial Arbitration* (2nd edn, Kluwer Law International 2014).

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Arbitration is one of the most widely used forms of Alternative Dispute Resolution, particularly in commercial, contractual, and international disputes. In arbitration, the disputing parties mutually agree to refer their dispute to an impartial and independent arbitrator or a panel of arbitrators. The arbitrator conducts hearings, examines evidence, and delivers a final decision known as an arbitral award.

The arbitral award is binding on the parties and enforceable in the same manner as a court decree, subject to limited judicial intervention. Arbitration offers several advantages, such as procedural flexibility, confidentiality, and expertise of arbitrators in specialized fields. In India, arbitration is governed by the Arbitration and Conciliation Act, 1996, which aims to promote efficient and fair resolution of disputes while minimizing court interference.⁸

3.2 Mediation

Mediation is a voluntary, informal, and non-binding dispute resolution process in which a neutral third party, known as a mediator, assists the disputing parties in reaching a mutually acceptable settlement. The mediator does not impose a decision but facilitates dialogue, clarifies issues, and helps parties explore possible solutions.

One of the key features of mediation is party autonomy, as the outcome depends entirely on the consent of the parties. Mediation is particularly effective in family disputes, matrimonial matters, commercial conflicts, and community disputes, where preserving relationships is essential. Its confidential and cooperative nature makes it a preferred method for amicable settlement without adversarial confrontation.⁹

3.3 Conciliation

Conciliation is like mediation in its objective of amicable settlement; however, it differs in the degree of involvement of the neutral third party. In conciliation, the conciliator plays a more active role by suggesting terms of settlement after understanding the facts and positions of the parties.¹⁰

The conciliator may propose solutions to resolve the dispute, which the parties are free to accept or reject. Conciliation is widely used in industrial, labour, and employment-related disputes, where maintaining harmonious relationships between employers and employees is

⁸Russell on Arbitration (24th edn, Sweet & Maxwell 2015).

⁹Arbitration and Conciliation Act, 1996, ss 2, 34 and 36.

¹⁰Laurence Boule, *Mediation: Principles, Process and Practice* (3rd edn, LexisNexis 2011).

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crucial. The Arbitration and Conciliation Act, 1996 also provides a legal framework for conciliation proceedings in India.

3.4 Lok Adalats

Lok Adalats are statutory dispute resolution forums established under the Legal Services Authorities Act, 1987, with the objective of providing speedy, affordable, and accessible justice to the masses. These forums are based on the principle of compromise and settlement and are particularly effective in resolving petty civil cases, motor accident claims, family disputes, and compoundable criminal offences.¹¹

The decisions of Lok Adalats, known as awards, are deemed to be decrees of a civil court and are final and binding on the parties, with no provision for appeal. Lok Adalats play a significant role in reducing judicial backlog and promoting social justice by ensuring that legal remedies are available even to economically weaker sections of society.¹²

4. Legal Framework of ADR in India

The development and promotion of Alternative Dispute Resolution in India is strongly supported by a comprehensive constitutional, statutory, and judicial framework. The Indian legal system recognizes ADR as an essential mechanism for ensuring effective administration of justice, reducing judicial backlog, and promoting access to justice for all sections of society.¹³

4.1 Constitutional Basis: Article 39A

Article 39A of the Constitution of India mandates the State to ensure that the operation of the legal system promotes justice based on equal opportunity. It emphasizes free legal aid and access to justice, particularly for economically and socially disadvantaged sections. ADR mechanisms align with the spirit of Article 39A by providing inexpensive, speedy, and informal modes of dispute resolution, thereby making justice more accessible and inclusive.¹⁴

4.2 Arbitration and Conciliation Act, 1996

¹¹Legal Services Authorities Act, 1987, ss 19–22.

¹²N. R. Madhava Menon, *Legal Aid and Lok Adalats* (Oxford University Press 1998).

¹³H. M. Seervai, *Constitutional Law of India* (4th edn, Universal Law Publishing 2016).

¹⁴Justice P. N. Bhagwati, ‘Access to Justice’ (1984) 2 *Supreme Court Cases (Journal)* 1.

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The Arbitration and Conciliation Act, 1996 forms the backbone of arbitration and conciliation proceedings in India. The Act is based on the UNCITRAL Model Law and aims to ensure fair, efficient, and speedy resolution of disputes with minimal court intervention.¹⁵ It provides detailed provisions relating to the appointment of arbitrators, conduct of proceedings, enforcement of arbitral awards, and conciliation procedures. The Act reflects India's commitment to promoting ADR, particularly in commercial and international disputes, as an effective alternative to traditional litigation.¹⁶

4.3 Code of Civil Procedure, 1908- Section 89

Section 89 of the Code of Civil Procedure, 1908 plays a crucial role in institutionalizing ADR within the judicial process. It empowers courts to refer disputes for settlement through arbitration, conciliation, mediation, or Lok Adalats when elements of settlement exist. This provision encourages judges to actively promote amicable resolution and settlement of disputes at an early stage, thereby reducing the burden on courts and facilitating efficient justice delivery.

4.4 Legal Services Authorities Act, 1987

The Legal Services Authorities Act, 1987 provides statutory recognition to Lok Adalats and establishes legal services institutions at the national, state, district, and taluk levels. The Act aims to provide free legal aid and ensure that justice is not denied due to economic or other disabilities. Lok Adalats under this Act resolve disputes through compromise and settlement, and their awards are deemed to be decrees of civil courts, making them final and binding on the parties.

4.5 Role of Judiciary in Promoting ADR

The Indian judiciary has played a proactive role in strengthening ADR mechanisms through various landmark judgments. Courts have consistently emphasized the need for settlement-oriented approaches to dispute resolution. Judicial pronouncements have clarified the scope of Section 89 CPC and encouraged the use of mediation and arbitration as effective

¹⁵United Nations Commission on International Trade Law, *UNCITRAL Model Law on International Commercial Arbitration* (1985, amended 2006).

¹⁶Arbitration and Conciliation Act, 1996, Statement of Objects and Reasons.

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alternatives to litigation. This judicial support has significantly contributed to the growth and acceptance of ADR in the Indian legal system.¹⁷

5. Role of ADR in Administration of Justice

5.1 Speedy Justice

Alternative Dispute Resolution plays a crucial role in strengthening the administration of justice by complementing the traditional judicial system. It addresses several structural and practical limitations of court-based litigation and contributes to a more efficient, accessible, and people-centric justice delivery mechanism.¹⁸

5.1 Speedy Justice

One of the most significant contributions of ADR to the administration of justice is the delivery of speedy justice. Traditional court proceedings often involve prolonged litigation due to procedural formalities, frequent adjournments, and heavy caseloads. ADR mechanisms, on the other hand, follow flexible procedures and focus on early settlement, enabling disputes to be resolved within a shorter time frame. Speedy resolution not only benefits the parties involved but also enhances public confidence in the justice system.¹⁹

5.2 Cost-Effective Justice

ADR provides a cost-effective alternative to litigation by minimizing court fees, legal expenses, and other incidental costs associated with lengthy trials. The simplified procedures and limited formalities reduce financial burdens on litigants, making justice more affordable. This is particularly beneficial for economically weaker sections of society, who may otherwise be discouraged from seeking legal remedies due to high litigation costs.²⁰

5.3 Reducing Judicial Backlog

The ever-increasing backlog of cases is one of the major challenges faced by the Indian judiciary. ADR helps in reducing this pendency by diverting minor, compoundable, and settlement-oriented disputes away from courts. By resolving such disputes through

¹⁷*Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc* (2012) 9 SCC 552.

¹⁸Marc Galanter, 'Justice in Many Rooms: Courts, Private Ordering and Indigenous Law' (1981) 19 *Journal of Legal Pluralism* 1.

¹⁹Law Commission of India, *221st Report on Need for Speedy Justice – Some Suggestions* (2009).

²⁰R. K. Bangia, *Law of Arbitration* (11th edn, Allahabad Law Agency 2019).

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arbitration, mediation, conciliation, and Lok Adalats, courts are relieved of excessive workload and can devote more time and resources to serious and complex cases.²¹

5.4 Access to Justice

Access to justice is a fundamental aspect of a fair legal system. ADR enhances access to justice by providing simplified, informal, and participatory dispute resolution forums.²² It eliminates many procedural complexities of court litigation and encourages community-based and consensual settlements. ADR mechanisms are especially effective in reaching marginalized and vulnerable sections of society by ensuring that justice is not denied due to economic, social, or procedural barriers.

5.5 Preservation of Relationships

Unlike adversarial court proceedings, ADR promotes cooperation and mutual understanding between disputing parties. By encouraging dialogue and amicable settlement, ADR helps preserve personal, commercial, and social relationships that might otherwise be damaged through prolonged litigation. This aspect is particularly important in family disputes, labor conflicts, and business relationships, where continued interaction between parties is often necessary.²³

6. Advantages of ADR

Alternative Dispute Resolution offers several advantages that make it an effective and preferred mechanism for resolving disputes outside the traditional judicial system.²⁴

Firstly, ADR saves time and money by avoiding lengthy court procedures, repeated adjournments, and high litigation expenses. Disputes are resolved within a comparatively shorter period, which benefits both the parties and the justice system.

Secondly, ADR processes are confidential and flexible in nature. Unlike court proceedings, which are generally open to the public, ADR ensures privacy of the parties and the dispute. The procedures are flexible and can be tailored according to the nature of the dispute and the convenience of the parties.

²¹World Bank, *Doing Business Report: Enforcing Contracts in India* (2018).

²²Vidhi Centre for Legal Policy, *Backlog and Delay in Indian Courts* (2017).

²³Justice A. M. Khanwilkar, 'ADR and Access to Justice' (2019) 5 *Indian Journal of Arbitration Law* 12.

²⁴Albert Fiadjoe, *Alternative Dispute Resolution: A Developing World Perspective* (Cavendish Publishing 2004).

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Another important advantage of ADR is party autonomy and mutual participation. The parties have greater control over the process, selection of neutral third parties, and the outcome. This participatory approach increases the likelihood of voluntary compliance with the settlement.

ADR is also less adversarial in nature. It promotes cooperation, dialogue, and mutual understanding rather than confrontation. This helps in reducing hostility and encourages amicable settlement, particularly in family, labor, and commercial disputes.²⁵

Finally, ADR ensures effective enforcement of settlements, especially in arbitration and Lok Adalats, where the outcomes are legally binding and enforceable as court decrees. This enhances the credibility and effectiveness of ADR mechanisms.²⁶

7. Challenges and Limitations of ADR

Despite its numerous advantages, ADR is not free from limitations and challenges that affect its widespread acceptance and effectiveness.

One of the major challenges is the lack of awareness among the general public about ADR mechanisms and their benefits. Many litigants still prefer traditional court litigation due to limited knowledge or mistrust of alternative processes.²⁷

Another significant issue is the shortage of trained and skilled mediators, conciliators, and arbitrators. The quality of ADR proceedings largely depends on the expertise and neutrality of the professionals involved, and inadequate training can affect the fairness of outcomes.

In certain ADR processes, there is limited enforceability, particularly in non-binding mechanisms such as mediation and conciliation, where settlements depend on the voluntary compliance of the parties.²⁸

There is also resistance from litigants and legal practitioners who prefer the conventional adversarial court system, either due to familiarity or perceived authority of judicial decisions.

Lastly, ADR may suffer from the possibility of power imbalance between parties, especially where one party is economically or socially stronger. In such cases, the weaker party may feel

²⁵ Julian Lew, Loukas Mistelis and Stefan Kröll, *Comparative International Commercial Arbitration* (Kluwer Law International 2003).

²⁶ Malcolm Wilkey Reed, *ADR and Business Disputes* (Sweet & Maxwell 2012).

²⁷ Law Commission of India, *246th Report on Amendments to the Arbitration and Conciliation Act, 1996* (2014).

²⁸ Bimal N. Patel, 'Challenges to ADR in India' (2015) 7 *Indian Journal of Law and Justice* 45.

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pressured into accepting an unfair settlement, highlighting the need for safeguards and skilled neutral facilitators.²⁹

8. Judicial Approach Towards ADR

Indian courts have consistently supported ADR. In *Salem Advocate Bar Association v. Union of India*,³⁰ the Supreme Court emphasized the importance of Section 89 CPC. Similarly, in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.*,³¹ the Court clarified the scope and applicability of ADR mechanisms.

9. Conclusion

Alternative Dispute Resolution has become an indispensable mechanism for the effective administration of justice. It promotes speedy, affordable, and accessible justice while reducing the burden on courts. Although challenges remain, strengthening institutional support, spreading awareness, and improving professional training can enhance the effectiveness of ADR. In a rapidly evolving legal landscape, ADR serves as a vital tool for ensuring justice in a practical and efficient manner.

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²⁹United Nations Development Programme (UNDP), *Access to Justice and Legal Empowerment in India* (2016).

³⁰*Salem Advocate Bar Association v Union of India* (2003) 1 SCC 49

³¹*Afcons Infrastructure Ltd v Cherian Varkey Construction Co (P) Ltd* (2010) 8 SCC 24.

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