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## THE ROLE OF ALTERNATIVE DISPUTE RESOLUTION (ADR) MECHANISM IN EASING BURDEN ON INDIAN COURTS

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### ABSTRACT

*The Indian judicial system faces significant challenges due to a staggering backlog of cases, resulting in delays and hindrances to justice delivery. In response, Alternative Dispute Resolution (ADR) mechanisms have emerged as pivotal tools to alleviate the strain on traditional courts. This article explores the role of ADR mechanisms in easing the burden on Indian courts. It begins by outlining the hierarchical structure of the Indian judiciary and the persistent challenges posed by the backlog of cases. A comprehensive overview of ADR is provided, including its various forms such as mediation, arbitration, negotiation, and conciliation. The significance of ADR in the Indian context is highlighted, driven by both demand and supply-side factors. Demand for ADR arises from litigants seeking quicker, cost-effective, and less adversarial dispute resolution methods, while supply is driven by policymakers and legal practitioners recognizing ADR's potential to relieve the overloaded court system. The article examines the benefits and challenges associated with integrating ADR mechanisms into the Indian legal framework. It also discusses the implications of ADR for access to justice, judicial efficiency, and the broader legal landscape in India. Through analysis and exploration of ADR practices, this article aims to shed light on how ADR can transform the Indian justice system, promote timely resolution of disputes, and uphold the rule of law.*

**Keywords:** *Alternative Dispute Resolution, Indian Judiciary, Access to Justice, Judicial-Efficiency, Mediation.*

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## INTRODUCTION

The Indian judiciary is renowned for its complexity, intricacy, and its commitment to upholding the rule of law. However, it is also burdened by an alarming backlog of cases, which impedes the timely dispensation of justice. The backlog of cases in Indian courts has reached staggering proportions, with millions of cases pending at various levels of the judicial hierarchy. This backlog not only undermines the efficiency of the justice system but also denies citizens their fundamental right to timely redressal. The root causes of the backlog are multifaceted and include factors such as understaffed courts, procedural delays, and resource constraints. Additionally, the adversarial nature of litigation often exacerbates the problem by prolonging disputes and escalating legal costs. In light of these challenges, there has been a growing recognition of the need for alternative approaches to dispute resolution that can complement the traditional court system. Alternative Dispute Resolution (ADR)<sup>2</sup> mechanisms have emerged as viable alternatives to conventional litigation in addressing disputes. ADR encompasses a variety of processes and techniques aimed at resolving conflicts outside the formal court system. These processes include mediation, arbitration, negotiation, conciliation, and various hybrid forms of dispute resolution. Unlike traditional litigation, which relies on adversarial proceedings and judicial determinations, ADR focuses on facilitating dialogue, collaboration, and mutually acceptable solutions between parties. In recent years, there has been a notable shift towards the use of ADR mechanisms in India, driven by both demand-side and supply-side factors. On the demand side, litigants are increasingly seeking quicker, cost-effective, and less adversarial methods of resolving disputes. On the supply side, policymakers, legal practitioners, and judicial authorities have recognized the potential of ADR in alleviating the strain on the overloaded court system. This article seeks to examine the role of ADR mechanisms in easing the burden on Indian courts. It will analyze the benefits and challenges associated with the adoption and integration of ADR into the Indian legal framework. Furthermore, it will explore the implications of ADR for access to justice, judicial efficiency, and the broader legal landscape in India.

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<sup>2</sup> The Arbitration and Conciliation Act 1996.

## OVERVIEW OF THE INDIAN JUDICIAL SYSTEM

The Indian judicial system is characterized by its hierarchical structure, which consists of multiple tiers of courts at the federal, state, and district levels. At the apex of the hierarchy is the Supreme Court of India, followed by High Courts at the state level, and subordinate courts at the district level. Each tier of the judiciary has its distinct jurisdiction and authority to adjudicate disputes within its territorial ambit. Despite its hierarchical structure and constitutional mandate, the Indian judicial system grapples with a plethora of challenges that impede its effectiveness. Chief among these challenges is the staggering backlog of cases that clogs the courts at all levels. According to recent statistics, the Indian judiciary is saddled with over 35 million pending cases, a significant portion of which are stuck in protracted litigation for years, if not decades. The backlog of cases not only undermines the credibility and efficacy of the judicial system but also imposes substantial costs on litigants and society at large. Delays in the resolution of disputes erode public trust in the judiciary, deter investment, stifle economic growth, and perpetuate social injustices. Moreover, the backlog disproportionately affects marginalized and vulnerable sections of society, who often lack the resources to navigate the labyrinthine legal process. In light of these challenges, there is an urgent need to explore alternative avenues for dispute resolution that can complement the traditional court system and expedite the delivery of justice. Alternative Dispute Resolution (ADR) mechanisms offer a promising solution to this pressing problem by providing a forum for resolving disputes in a timely, cost-effective, and amicable manner.

## THE CONCEPT OF ALTERNATIVE DISPUTE RESOLUTION (ADR)

Alternative Dispute Resolution (ADR) refers to a spectrum of processes and techniques designed to resolve conflicts outside the formal judicial system. Unlike traditional litigation, which relies on courtroom adjudication and adversarial proceedings, ADR emphasizes consensus-building, negotiation, and collaborative problem-solving. The hallmark of ADR is its flexibility, informality, and focus on empowering parties to craft mutually acceptable solutions to their disputes. The most common forms of ADR include mediation, arbitration, negotiation, conciliation, and hybrid processes that combine elements of multiple approaches. Each form of ADR has its unique characteristics, procedures, and advantages, which make it suitable for different types of disputes and contexts. For instance, mediation involves the assistance of a neutral third party (the mediator) who facilitates communication and negotiation

between disputing parties to reach a voluntary settlement. Arbitration, on the other hand, entails the adjudication of disputes by one or more impartial arbitrators, whose decisions are binding on the parties. Negotiation is a direct and informal dialogue between parties aimed at reaching a mutually acceptable agreement without the intervention of third parties. Conciliation involves the appointment of a conciliator who assists parties in identifying common interests and exploring options for resolution. In recent years, there has been a growing recognition of the potential of ADR to alleviate the burden on traditional courts and enhance access to justice for all segments of society. ADR offers several key advantages over litigation, including speed, cost-effectiveness, confidentiality, flexibility, and greater party autonomy. By providing parties with greater control over the resolution process, ADR can promote constructive dialogue, preserve relationships, and foster win-win outcomes.

### **DIFFERENT TYPES OF ADR**

Alternative Dispute Resolution (ADR) encompasses a variety of processes and techniques aimed at resolving conflicts outside the formal court system. In the Indian context, where the judiciary faces a significant backlog of cases and delays in justice delivery, ADR mechanisms have emerged as vital tools for easing the burden on the courts and promoting efficient dispute resolution. Below are different types of ADR relevant to the Indian legal landscape:

- **MEDIATION**

Mediation is a voluntary and confidential process where a neutral third party, known as the mediator, facilitates communication and negotiation between disputing parties. The mediator helps parties identify their interests, explore options for resolution, and reach a mutually acceptable agreement. Mediation is particularly effective in resolving disputes where parties value preserving relationships and maintaining confidentiality. In India, mediation is gaining popularity, especially in family disputes, commercial matters, and civil cases.

- **ARBITRATION**

Arbitration is a formal process where disputing parties agree to submit their dispute to one or more impartial arbitrators whose decision is binding. Unlike mediation, where the mediator facilitates negotiation, arbitrators act more like judges, evaluating evidence, applying the law,

and issuing a final, enforceable decision. Arbitration can be conducted ad-hoc or through institutional bodies like the Indian Council of Arbitration (ICA) or the International Court of Arbitration (ICC). Arbitration offers parties flexibility, privacy, and the ability to choose arbitrators with expertise in their dispute's subject matter.

- **NEGOTIATION**

Negotiation is an informal and direct dialogue between parties aimed at reaching a mutually acceptable solution without third-party intervention. It is the most basic form of ADR and can occur before or during formal legal proceedings. Negotiation allows parties to explore their interests, needs, and potential solutions. While negotiation can be conducted in various settings, including face-to-face meetings, it may benefit from the assistance of legal counsel or mediators to ensure fairness and effectiveness.

- **CONCILIATION**

Conciliation is similar to mediation but may involve a more active role for the conciliator in proposing solutions and facilitating agreement between parties. Like mediation, conciliation is voluntary, confidential, and emphasizes collaboration and communication. Conciliation is often used in labor disputes, community conflicts, and interpersonal disputes where parties seek a less adversarial approach to resolution. In India, the Legal Services Authorities Act, 1987, empowers State Legal Services Authorities to organize Lok Adalats, which are forums for conciliation and settlement of disputes.

- **ADJUDICATION**

In certain ADR contexts, parties may opt for an adjudicative process where an expert or panel of experts evaluates evidence and issues a binding decision. Adjudication can be particularly useful in disputes involving technical or specialized subject matter where parties prefer a swift resolution by an experienced adjudicator. While adjudication resembles a mini-trial, it offers parties a quicker and more cost-effective alternative to traditional litigation. However, it may lack the flexibility and informality of other ADR methods.

**CASES RELATED TO ALTERNATIVE DISPUTE RESOLUTION (ADR) IN INDIA**

- **Salem Advocate Bar Association, Tamil Nadu v. Union of India (2003) 1 SCC 49<sup>3</sup>**  
This landmark case affirmed the constitutional validity of arbitration as an alternative mechanism for dispute resolution. It emphasized the importance of ADR in reducing the burden on traditional courts and promoting efficiency in the justice system.
- **Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010) 8 SCC 24<sup>4</sup>**  
In this case, the Supreme Court of India recognized the principle of party autonomy in arbitration agreements. It held that courts should adopt a pro-arbitration approach and respect the parties' choice of dispute resolution mechanism, thereby endorsing the use of arbitration as an effective alternative to litigation.
- **Guru Nanak Foundation v. Rattan Singh & Sons (1981) 4 SCC 634<sup>5</sup>**  
This case established the principle of judicial non-interference in arbitration proceedings. The court affirmed that arbitration awards should be respected and enforced unless there are compelling reasons to set them aside, thereby promoting finality and certainty in dispute resolution through arbitration.
- **Bharat Aluminium Co. v. Kaiser Aluminium Technical Service (2012) 9 SCC 552<sup>6</sup>**  
In this case, the Supreme Court of India clarified the scope of judicial intervention in arbitration proceedings. It held that courts should adopt a minimal intervention

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<sup>3</sup> Salem Advocate Bar Association, Tamil Nadu v. Union of India [2003] 1 SCC 49

<sup>4</sup> Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. [2010] 8 SCC 24

<sup>5</sup> Guru Nanak Foundation v. Rattan Singh & Sons [1981] 4 SCC 634

<sup>6</sup> Bharat Aluminium Co. v. Kaiser Aluminium Technical Service [2012] 9 SCC 552



approach and only intervene in exceptional circumstances to uphold the integrity and fairness of the arbitral process.

- **Sundaram Finance Ltd. v. NEPC India Ltd. (1999) 2 SCC 479<sup>7</sup>**

This case underscored the importance of enforcing arbitration agreements and respecting the autonomy of parties to choose their preferred mode of dispute resolution. It emphasized the need for courts to adopt a pro-enforcement approach towards arbitration agreements, thereby fostering a conducive environment for ADR in India.

## CONCLUSION

In conclusion, the Indian legal system is confronted with a myriad of challenges, foremost among them being the backlog of cases that clogs the courts and undermines the delivery of justice. Alternative Dispute Resolution (ADR) mechanisms have emerged as indispensable tools for addressing these challenges and easing the burden on Indian courts. By providing parties with flexible, cost-effective, and amicable avenues for resolving disputes, ADR can help alleviate the strain on traditional courts, reduce litigation costs, expedite the resolution of disputes, and promote greater access to justice for all segments of society. However, the successful integration of ADR into the Indian legal framework requires concerted efforts on the part of policymakers, legal practitioners, and judicial authorities to raise awareness, build capacity, and ensure the integrity and effectiveness of ADR processes. In subsequent sections of this article, we will delve deeper into the various types of ADR mechanisms, their advantages and limitations, and their implications for the Indian legal landscape. By examining case studies, empirical research, and best practices from around the world, we will seek to provide insights into the potential of ADR to transform the Indian justice system and promote the rule of law.

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<sup>7</sup> Sundaram Finance Ltd. v. NEPC India Ltd. [1999] 2 SCC 479