



Transforming Dispute Resolution: The Growth of ADR in India

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Abstract

Alternative Dispute Resolution (ADR) has become an integral component of India's legal framework, offering an effective, cost-efficient, and time-saving approach to resolving disputes outside traditional court proceedings. The Indian judiciary, burdened with an enormous backlog of cases, has recognised ADR as a viable solution to ensure timely justice while reducing litigation costs and procedural delays. ADR mechanisms, including arbitration, mediation, conciliation, and negotiation, have gained significant traction across various sectors, providing parties with greater flexibility, confidentiality, and control over dispute resolution. The evolution of ADR in India can be traced back to its deep-rooted history in informal dispute-resolution practices, such as the traditional Panchayat system. However, its formal integration into the legal system began with the Arbitration Act of 1940, which was later replaced by the Arbitration and Conciliation Act of 1996 to align with international standards, particularly the UNCITRAL Model Law. Key legislative amendments, such as those introduced in 2015 and 2019, have further refined the arbitration process, ensuring minimal judicial interference, expeditious resolution, and the establishment of institutional arbitration centers. Additionally, the enactment of the Mediation Act, 2023, has provided a strong legal foundation for mediation, institutionalizing it as a mainstream dispute resolution method. The growing adoption of ADR in India has been driven by judicial reforms, government initiatives, and increasing corporate reliance on alternative mechanisms for resolving commercial disputes. The Indian judiciary has actively promoted ADR through landmark judgments and procedural mandates, making pre-litigation mediation mandatory in certain cases. Additionally, commercial arbitration has seen a significant rise, particularly in sectors such as construction, real estate, intellectual property, and international trade. The emergence of Online Dispute Resolution (ODR) has further revolutionized ADR, leveraging technology to provide seamless, accessible, and efficient dispute resolution services. Despite its remarkable growth, ADR in India faces several challenges, including a lack of awareness, resistance from traditional litigants, enforcement issues, and the need for enhanced institutional capacity. Addressing these challenges through

legal reforms, capacity-building initiatives, and increased public awareness will be crucial in strengthening India's ADR ecosystem. Looking ahead, ADR is poised to play a transformative role in the Indian legal landscape by fostering a culture of amicable settlements, reducing judicial caseloads, and enhancing access to justice. With continued policy support, the integration of digital solutions, and the promotion of institutional arbitration and mediation, ADR has the potential to reshape India's dispute resolution framework, making it more efficient, transparent, and globally competitive.

Key Words: Alternative Dispute Resolution (ADR), Litigation, Arbitration, Mediation, Judicial Intervention, Institutional Arbitration, Online Dispute Resolution (ODR), Enforcement of Arbitral Awards, Legal Reforms, Global Arbitration Hub

Introduction

The Indian legal system, despite being one of the most comprehensive in the world, continues to grapple with an overwhelming backlog of cases and lengthy litigation processes. Courts at all levels district, high, and supreme are burdened with millions of pending cases, leading to prolonged delays in delivering justice. This inefficiency in the traditional litigation system has necessitated exploring alternative mechanisms to resolve disputes in a timely and cost-effectively. Alternative Dispute Resolution (ADR) has emerged as a viable solution, offering parties a structured yet flexible approach to settling conflicts outside the conventional courtroom setting. ADR encompasses various dispute resolution methods, including arbitration, mediation, conciliation, and negotiation. These methods prioritize dialogue, cooperation, and mutual agreement rather than adversarial litigation. The primary advantage of ADR lies in its ability to provide quicker resolutions while minimizing legal costs and procedural complexities. Moreover, ADR allows disputing parties to maintain confidentiality, preserve business relationships, and have greater control over the resolution process, making it particularly attractive for commercial disputes and cross-border conflicts. Historically, India has had a rich tradition of informal dispute resolution, with mechanisms such as panchayats (village councils) and nyaya panchayats playing a crucial role in community-based justice. However, the formal adoption of ADR within India's legal framework gained momentum in the late 20th century, particularly with the enactment of the Arbitration and Conciliation Act, 1996. This law was designed to modernize India's arbitration framework in line with global standards, reducing judicial intervention and promoting institutional arbitration. Additionally, Lok Adalats (People's Courts), introduced under the Legal Services Authorities Act, 1987, have played a significant role in expediting dispute resolution, particularly for cases involving family disputes, land disputes, and small claims. (Srivastava & Singh, 2020) Over the years, the Indian judiciary and government have actively promoted ADR through legislative reforms and policy initiatives. The amendments to the Arbitration and Conciliation Act in 2015 and 2019 have enhanced the efficiency of arbitration by introducing provisions for time-bound proceedings, reducing court interference, and promoting institutional arbitration. The recent Mediation Act, 2023, marks a significant step in institutionalising mediation as a mainstream dispute resolution method. Furthermore, the rise of Online Dispute Resolution (ODR) has brought technology-driven solutions to ADR, making it more accessible and efficient, particularly in the wake of the COVID-19 pandemic. (Transforming Conflict Resolution: The Impact of AI on Online Dispute Resolution (ODR) in India

and Beyond | SpringerLink, n.d.) (Nayak & Samaddar, 2025) As ADR continues to evolve, its growing adoption across sectors including corporate law, real estate, consumer disputes, and international trade signals a shift towards a more dynamic and efficient dispute resolution framework. However, challenges such as a lack of awareness, enforcement issues, and the need for skilled ADR professionals persist. This article explores the growth and transformation of ADR in India, analyzing its legal foundations, current developments, and the road ahead for making ADR a cornerstone of India's justice delivery system.

Evolution and Legal Framework of ADR in India

The concept of Alternative Dispute Resolution (ADR) has been deeply embedded in Indian society for centuries. Traditionally, disputes in villages and communities were resolved through panchayats, where respected elders or community leaders acted as mediators and arbitrators. This informal system provided quick and cost-effective justice without the need for lengthy litigation. However, with the advent of colonial rule and the establishment of a formal judicial system, these traditional mechanisms lost prominence. Recognizing the need for structured arbitration, the Arbitration Act of 1940 was enacted, marking the beginning of ADR's legal recognition in India. Although this Act laid the foundation for arbitration as a dispute resolution mechanism, it was considered inadequate due to excessive judicial intervention and procedural delays. (Singhal, 2023) To modernize India's arbitration laws and bring them in line with international standards, the government introduced the Arbitration and Conciliation Act, 1996. This Act was largely based on the UNCITRAL (United Nations Commission on International Trade Law) Model Law on International Commercial Arbitration, ensuring that India's arbitration framework aligned with global best practices. The Act streamlined arbitration and conciliation processes, emphasizing minimal court interference, party autonomy, and enforceability of arbitral awards. It also recognized both domestic and international arbitration, providing clear guidelines on their conduct and enforcement. Despite these improvements, challenges such as delays in arbitration proceedings, excessive judicial interference, and ambiguity in certain provisions remained, necessitating further amendments to the law.

To address these concerns, the government introduced significant reforms through the Arbitration and Conciliation (Amendment) Act, 2015 and the Arbitration and Conciliation (Amendment) Act, 2019. The 2015 amendment aimed to make arbitration more time-efficient by introducing strict timelines for completing proceedings, limiting judicial intervention, and promoting institutional arbitration over ad hoc arbitration. The 2019 amendment further strengthened the institutional arbitration framework by establishing the Arbitration Council of India (ACI) to regulate and promote arbitration practices in the country. Additionally, provisions were made to improve the enforcement of arbitral awards and ensure neutrality in arbitrator appointments. These amendments played a crucial role in making India an arbitration-friendly jurisdiction and enhancing its appeal for foreign investors and businesses. Another major milestone in India's ADR landscape was the introduction of the Mediation Act, 2023, which sought to institutionalise and promote mediation as a preferred dispute resolution method. While mediation had been practised informally and encouraged by courts in civil and commercial disputes, no comprehensive legislation governed it. The Mediation Act provides a structured framework for pre-litigation mediation, enforceable mediated settlements, and the establishment of mediation

institutions across India. By making mediation a formalised and recognised method of dispute resolution, the Act is expected to reduce the burden on courts and encourage amicable settlements.(Arora et al., 2021) Apart from arbitration and mediation, other ADR mechanisms have provided access to justice, especially in rural and marginalised communities. Lok Adalats (People's Courts), introduced under the Legal Services Authorities Act, 1987, offer an informal and cost-free forum for resolving disputes. These courts have successfully handled cases related to family disputes, land matters, and small financial claims by promoting amicable settlements. Gram Nyayalayas (Village Courts) was established under the Gram Nyayalayas Act, 2008, to provide accessible and affordable justice in rural areas through simplified procedures. These institutions have played a crucial role in delivering swift and community-driven justice, ensuring that individuals from remote areas do not have to undergo the complexities of formal litigation. The legal framework of ADR in India has undergone significant transformations, evolving from traditional dispute resolution practices to a robust institutional framework supported by progressive legislation. The continued emphasis on legal reforms, institutional capacity-building, and awareness campaigns will further strengthen ADR mechanisms in India. By promoting efficient and accessible dispute resolution, ADR has the potential to revolutionise the Indian legal system and ensure justice for all, particularly in a country where judicial delays remain a pressing concern.

Growth and Adoption of ADR in India

The expansion of Alternative Dispute Resolution (ADR) in India has been driven by a combination of judicial support, economic growth, government initiatives, and corporate preference for faster and more efficient dispute resolution mechanisms. The Indian legal system, long burdened by excessive litigation and case backlogs, has increasingly turned to ADR as a viable alternative. Over the years, arbitration, mediation, and conciliation have gained recognition as practical means of dispute resolution across various sectors, making ADR an integral part of India's legal and business landscape.

Judicial Support for ADR: One of the most significant factors contributing to the growth of ADR in India is the active promotion by the judiciary. The Supreme Court and High Courts have consistently encouraged parties to opt for out-of-court settlements to reduce the burden on the formal legal system. Key judicial pronouncements have reinforced the legitimacy and importance of ADR, emphasizing minimal court interference in arbitration proceedings.(Arora et al., 2021) The Supreme Court's ruling in *Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd.* (2011)(*Booz-Allen & Hamilton Inc vs Sbi Home Finance Ltd. & Ors on 15 April, 2011*, n.d.) reaffirmed that arbitration should be preferred over litigation for commercial disputes. Similarly, in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction* (2010), the court emphasised that courts should refer cases to mediation wherever possible. The judiciary's proactive stance has played a pivotal role in mainstreaming ADR and instilling confidence among litigants.

Rise of Commercial Arbitration: With economic liberalisation and globalisation, India has witnessed a surge in commercial arbitration, particularly in sectors such as construction, corporate disputes, international trade, and intellectual property. Businesses operating in India prefer arbitration due to its speed, cost-effectiveness, and confidentiality, which are crucial in resolving complex disputes without disrupting business operations. The enactment of the Arbitration and Conciliation Act, 1996, in line with the UNCITRAL Model Law, provided a structured legal framework for commercial arbitration. Further amendments in 2015 and 2019 strengthened the arbitration landscape by reducing court intervention, introducing time-bound proceedings, and promoting institutional arbitration over ad hoc arbitration. Arbitration institutions such as the Mumbai Centre for International Arbitration (MCIA), the Delhi International Arbitration Centre (DIAC), and the Nani Palkhivala Arbitration Centre (NPAC) have gained prominence, offering efficient dispute resolution services.(Dave et al., 2021)

Government Initiatives and Technological Advancements: The Indian government has promoted ADR through various policy measures and digital initiatives. The introduction of e-courts and Online Dispute Resolution (ODR) has revolutionised access to ADR mechanisms, making them more convenient and cost-effective. The National Judicial Data Grid (NJDG) and digitisation efforts have facilitated seamless dispute resolution, reducing procedural delays. ODR platforms have gained traction, particularly for resolving small claims, e-commerce disputes, and fintech-related issues. The government's push for institutional arbitration and the promotion of mediation through the recently enacted Mediation Act of 2023 further underscores its commitment to ADR. Additionally, including pre-litigation mediation in civil and commercial disputes is expected to significantly reduce the litigation burden and promote amicable settlements.(Nikam & Singh, 2022)

Corporate Preference for ADR: The corporate sector in India has increasingly turned to arbitration, mediation, and conciliation to resolve disputes efficiently while maintaining business relationships. Large multinational corporations, startups, and domestic enterprises prefer ADR due to its confidential nature, reduced costs, and enforceability of decisions. In sectors such as banking, real estate, infrastructure, and manufacturing, ADR is a preferred mechanism to avoid prolonged litigation and reputational risks. Many companies now include arbitration clauses in their contracts, mandating ADR as the primary mode of dispute resolution.(Goldsmith et al., 2011) Additionally, cross-border trade and investment agreements often stipulate international arbitration as the preferred method for dispute resolution, further strengthening India's ADR ecosystem.

Legal reforms, judicial support, technological advancements, and corporate adoption have driven the growth and adoption of ADR in India. As ADR evolves, institutional arbitration, digital dispute resolution, and mediation reforms will be critical in ensuring its wider acceptance. India must enhance awareness, train more skilled arbitrators and mediators, and develop strong enforcement mechanisms to further strengthen ADR. With a robust ADR framework, India can streamline its justice delivery system, attract foreign investment, and establish itself as a leading Asian arbitration hub.

Challenges in ADR Implementation in India

Despite significant legal reforms and growing recognition of Alternative Dispute Resolution (ADR) in India, several challenges hinder its effective implementation. These challenges range from structural inefficiencies, excessive judicial interference, high costs, and inadequate infrastructure to lack of awareness and enforcement difficulties. Addressing these barriers is crucial for strengthening ADR and establishing India as a globally recognised arbitration hub.

Lack of Institutional Arbitration Culture: A significant drawback in India's ADR landscape is the dominance of ad-hoc arbitration over institutional arbitration. Unlike internationally recognised arbitration hubs such as the Singapore International Arbitration Centre (SIAC) and the London Court of International Arbitration (LCIA), India lacks a strong ecosystem of established arbitration institutions that can ensure efficient and impartial proceedings. Ad-hoc arbitration often results in procedural uncertainties, delays, and inconsistent rulings, as no standardised rules and guidelines govern the arbitration process. Furthermore, many arbitrations remain party-controlled, where the disputing parties exert excessive influence over the selection of arbitrators and procedural matters, leading to potential biases and reduced transparency. (A *Qualitative Evaluation of ADR Reporting in India: Non-Regulatory Confronts and Their Possible Solutions* - IOPscience, n.d.) The absence of a robust institutional arbitration culture weakens India's credibility as a preferred destination for commercial arbitration, both domestically and internationally.

Judicial Intervention and Delays: Despite legislative amendments to reduce court interference in arbitration, excessive judicial intervention remains a persistent challenge in India. The Arbitration and Conciliation Act, 1996, modelled after the UNCITRAL Model Law, was designed to promote minimal court intervention. However, in practice, courts often set aside arbitral awards on various grounds, leading to prolonged litigation and defeating the core purpose of ADR. Many parties prefer litigation over arbitration, knowing that courts may review, modify, or nullify arbitral awards, making the arbitration process less predictable and reliable. (Legalstix Law School | Blogs | *An Overview of Challenges in the ADR Mechanism in India*, n.d.) The inconsistent enforcement of arbitral awards further discourages businesses and foreign investors from choosing India as a seat for arbitration. Delays in court proceedings, lack of judicial specialisation in ADR matters, and ambiguities in arbitration-related laws contribute to this significant bottleneck in the ADR ecosystem.

High Costs and Limited Accessibility: ADR is often promoted as a cost-effective alternative to litigation, but in reality, arbitration can be expensive due to high arbitrator fees, administrative costs, and legal representation expenses. Institutional arbitration fees, particularly in high-stakes disputes, can be prohibitively expensive, discouraging small businesses and individuals from opting for ADR. Additionally, mediation and conciliation remain underutilised, particularly in rural and semi-urban areas, due to a lack of awareness, infrastructure, and trained professionals. Many people are unfamiliar with mediation as an alternative to litigation, leading to low adoption rates. Moreover, Online Dispute Resolution (ODR), which could make ADR more affordable and accessible, is still in its early stages in India and lacks widespread implementation.

The financial burden of ADR in its current form makes it less attractive for dispute resolution, particularly for economically weaker litigants.

Inadequate Infrastructure and Skilled Professionals: For ADR to be effective, it requires strong institutional support, well-equipped arbitration centres, and a pool of qualified arbitrators and mediators. However, India faces a severe shortage of trained ADR professionals, negatively impacting the quality, credibility, and efficiency of dispute resolution. Many arbitration institutions in India lack proper funding, infrastructure, and administrative support, making them less attractive than international alternatives. The absence of standardised training programs and accreditation for arbitrators and mediators results in inconsistent decision-making, procedural delays, and lack of specialisation in complex commercial disputes. (*Perspective Chapter: Challenges and Possible Solutions of ADR Monitoring (Pharmacovigilance) in Low- and Middle-Income Countries* | IntechOpen, n.d.) Additionally, parties often question the neutrality of arbitrators, as concerns over bias, conflicts of interest, and delays in delivering arbitral awards persist. The lack of well-trained ADR professionals and insufficient institutional infrastructure hampers India's ability to compete with global arbitration hubs.

Limited Awareness and Resistance to Change: Despite growing interest in ADR, a significant portion of litigants, businesses, and legal professionals remain unaware of its benefits. Many lawyers and litigators hesitate to promote ADR, as prolonged litigation often provides them with higher financial incentives than swift arbitration or mediation settlements. Additionally, government departments and public sector undertakings (PSUs) tend to favour litigation over ADR due to bureaucratic inertia, lack of trust in ADR mechanisms, and rigid policies. Without structured ADR awareness programs, many businesses and individuals continue to rely on the traditional court system despite its delays and inefficiencies. (Kavita & Singha, 2024) Encouraging greater participation in ADR requires educating stakeholders, reforming legal policies, and promoting a culture of dispute resolution outside the courts.

Enforcement of Arbitral Awards: The enforcement of arbitral awards in India remains a significant challenge despite the country being a signatory to the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards. In many cases, domestic courts frequently review and set aside arbitral awards, undermining the finality and credibility of arbitration. The enforcement process is cumbersome and inconsistent, making it unattractive for foreign investors and multinational corporations seeking a reliable dispute resolution framework. Furthermore, delays in enforcement, judicial challenges to arbitral decisions, and ambiguity in arbitration laws discourage parties from choosing India as a preferred arbitration jurisdiction. India risks losing credibility in the international arbitration community without efficient and predictable enforcement mechanisms.

Suggestions for Strengthening ADR in India

The Alternative Dispute Resolution (ADR) framework in India has seen significant advancements, but certain structural and procedural inefficiencies continue to limit its full potential. To establish a more robust ADR ecosystem, reforms must focus on institutional arbitration, reducing judicial intervention, increasing accessibility, improving professional training, raising awareness, and ensuring efficient enforcement of arbitral awards.

Promoting Institutional Arbitration: A major drawback of ADR in India is the prevalence of ad-hoc arbitration, which often leads to delays, inconsistencies, and procedural inefficiencies. Strengthening institutional arbitration is essential to enhance credibility, ensure uniform procedures, and improve the efficiency of dispute resolution mechanisms. Institutions such as the Mumbai Centre for International Arbitration (MCIA) and the Delhi International Arbitration Centre (DIAC) should be promoted and expanded to provide structured arbitration services. Additionally, businesses and legal practitioners should be encouraged to prefer institutional arbitration over ad-hoc arbitration, ensuring transparency and procedural uniformity. Establishing specialised arbitration centres catering to specific industries like construction, banking, intellectual property, and international trade will help handle complex disputes with expert-driven resolutions.

Reducing Judicial Intervention: Excessive court interference remains one of India's biggest obstacles to compelling arbitration. Despite the amendments to the Arbitration and Conciliation Act of 1996, many cases still end up in courts due to challenges against arbitral awards. To address this, strict guidelines must be implemented to limit judicial intervention in arbitration proceedings, ensuring that courts act as facilitators rather than barriers to dispute resolution. Judges need specialized training to understand arbitration laws better and uphold the integrity of arbitral awards. Furthermore, promoting fast-track arbitration procedures for time-sensitive disputes will ensure speedier resolutions, aligning India with global best practices.

Making ADR More Affordable and Accessible: ADR is often perceived as a cost-effective alternative to litigation, but in reality, high arbitration fees and legal costs can make it unaffordable, especially for small businesses and individuals. Expanding Online Dispute Resolution (ODR) platforms can help reduce costs and make ADR more accessible, particularly for e-commerce, banking, and consumer disputes. The government should also promote Lok Adalats and Gram Nyayalayas to provide ADR mechanisms in rural and semi-urban areas, ensuring justice reaches grassroots levels. Additionally, subsidised ADR services should be introduced for lower-income groups, startups, and small businesses to promote wider adoption.

Enhancing Infrastructure and Professional Training: A major limitation of ADR in India is the shortage of trained professionals and institutional infrastructure. To address this, ADR training programs should be integrated into law school curriculums and legal institutions, creating a skilled pool of arbitrators and mediators. Establishing a certification system for arbitrators and mediators will ensure professional competency and reliability in dispute resolution. Furthermore, India must invest in modern arbitration centres

equipped with digital case management systems, AI-driven dispute resolution tools, and high-tech facilities to make ADR more efficient and globally competitive.

Increasing Awareness and Encouraging Mediation: A significant challenge to ADR's growth is the lack of awareness among businesses, legal professionals, and the general public. Many litigants hesitate to opt for ADR due to unfamiliarity with its benefits. To overcome this, public awareness campaigns should be launched to educate people on how ADR offers faster, more cost-effective, and efficient dispute resolution. Making pre-litigation mediation mandatory in civil and commercial disputes can help reduce the case backlog in courts and promote amicable settlements. Additionally, businesses, government officials, and legal practitioners must be trained on mediation and arbitration strategies, ensuring wider adoption and smoother implementation.

Strengthening Enforcement of Arbitral Awards: A major concern for investors and businesses opting for arbitration in India is the inconsistent enforcement of arbitral awards. While India is a signatory to the New York Convention, enforcement remains slow and unpredictable due to frequent legal challenges and delays in domestic courts. To address this, India must streamline and fast-track the enforcement process for both domestic and foreign arbitral awards. Strict compliance with the New York Convention is necessary to prevent courts from arbitrarily setting aside awards, ensuring India's credibility as a pro-arbitration jurisdiction. Additionally, establishing dedicated arbitration enforcement tribunals will help resolve challenges efficiently and ensure that arbitral awards are enforced swiftly and fairly.

Conclusion

Alternative Dispute Resolution (ADR) is revolutionising India's legal landscape by providing an efficient, cost-effective, and time-sensitive alternative to traditional litigation. As courts struggle with massive case backlogs and procedural inefficiencies, ADR mechanisms such as arbitration, mediation, conciliation, and negotiation have become vital tools for ensuring swift and amicable dispute resolution. The Indian government and judiciary have taken significant steps to promote ADR through legislative amendments, institutional arbitration, and mediation-friendly policies. However, despite these advancements, challenges such as judicial interference, high costs, inadequate infrastructure, and enforcement issues continue to hinder ADR's full potential. Addressing these challenges is essential for making ADR more effective and widely accessible. For ADR to truly transform India's legal system, institutional arbitration must be strengthened, judicial intervention must be minimised, and awareness must be enhanced among businesses, litigants, and legal professionals. Promoting Online Dispute Resolution (ODR), more significant investment in arbitration infrastructure, and training skilled arbitrators and mediators can enhance India's credibility as a global hub. Additionally, ensuring the consistent enforcement of arbitral awards and aligning India's arbitration framework with international best practices will attract more foreign investment and cross-border commercial disputes to Indian arbitration centres. In the long run, ADR has the potential to reduce litigation burdens significantly, promote a culture of dispute resolution outside the courts, and create a more business-friendly legal environment in India. By implementing comprehensive reforms, enhancing institutional arbitration, and ensuring transparent and efficient ADR mechanisms, India can establish itself as a leader in alternative dispute

resolution, both regionally and globally. Strengthening ADR is not just a necessity for legal efficiency it is a crucial step toward delivering fair, speedy, and accessible justice for all.

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