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EVOLUTION OF ALTERNATIVE DISPUTE RESOLUTION IN INDIA

Abstract

The evolution of Alternative Dispute Resolution (ADR) in India represents a significant shift in the country's legal landscape from traditional, court-centric adjudication to more flexible, efficient, and participatory methods of dispute settlement. Rooted in ancient Indian practices such as Panchayats and community-based justice systems, ADR has undergone a structured transformation through legislative and judicial interventions. The enactment of the Arbitration and Conciliation Act, 1996 marked a turning point by aligning Indian arbitration law with international standards like the UNCITRAL Model Law. Further, judicial encouragement and policy initiatives have strengthened mechanisms such as mediation, conciliation, and Lok Adalat under the Legal Services Authorities Act, 1987. In recent years, the integration of technology has given rise to Online Dispute Resolution (ODR), further modernizing the ADR framework. This paper examines the historical development, legal framework, judicial approach, and contemporary advancements in ADR in India, highlighting its growing importance in ensuring access to justice and

reducing the burden on courts.

Introduction

The Indian legal system has long been characterized by a heavy backlog of cases, procedural delays, and high litigation costs, which often hinder the timely delivery of justice. In response to these challenges, Alternative Dispute Resolution (ADR) has emerged as a vital component of the justice delivery system. ADR refers to a range of mechanisms—including arbitration, mediation, conciliation, and negotiation—that provide parties with an alternative to traditional court proceedings.

The roots of ADR in India can be traced back to ancient times, where village Panchayats and informal community councils played a central role in resolving disputes amicably. These indigenous systems emphasized consensus, social harmony, and restorative justice rather than adversarial litigation. However, during the colonial period, the formal court system gained prominence, leading to a decline in traditional dispute resolution practices.

The modern evolution of ADR in India began with legislative reforms and judicial recognition aimed at reducing court congestion and promoting efficient dispute resolution. A significant milestone in this journey was the enactment of the Arbitration and Conciliation Act, 1996, which consolidated and modernized arbitration laws in line with global standards. Additionally, the introduction of Section 89 in the Code of Civil Procedure, 1908 empowered courts to refer disputes to ADR mechanisms, thereby institutionalizing their use within the legal framework.

The establishment of Lok Adalats under the Legal Services Authorities Act, 1987 further strengthened access to justice by providing speedy and cost-effective resolution, particularly for marginalized sections of society. Over time, the judiciary, including the Supreme Court of India, has actively promoted ADR as an essential tool for justice delivery.

In the contemporary era, ADR in India is witnessing another phase of transformation with the emergence of Online Dispute Resolution (ODR), driven by technological advancements and the need for remote dispute resolution mechanisms. This evolution reflects a broader shift towards efficiency, accessibility, and innovation in the legal system.

This paper aims to explore the historical foundations, legislative developments, judicial contributions, and emerging trends that have shaped the evolution of ADR in India, while also assessing its role in enhancing access to justice and addressing systemic challenges within the judiciary.

Historical Background

1. Ancient and Pre-Colonial Era

The roots of Alternative Dispute Resolution (ADR) in India run deep into the socio-cultural and legal traditions of ancient Indian society. Long before modern courts were established, Indian communities relied on informal, participatory, and consensus-based dispute resolution processes that emphasized harmony, social cohesion, and restorative justice. These indigenous mechanisms, although not labelled as “ADR” in contemporary terms, functioned with remarkable efficiency and shaped the foundation for later statutory systems of arbitration, mediation, and conciliation. The pre-independence era, therefore, provides essential historical context for understanding how ADR evolved into its modern institutional form.

1.1 Traditional Dispute Resolution Mechanisms in Ancient India

Indian civilization developed a sophisticated, community-centric approach to dispute settlement, largely rooted in social institutions rather than formal legal structures. Key among these were the *panchayats*, local councils composed of village elders, whose authority stemmed from social respect, custom, and communal consensus. The panchayat model promoted cooperative decision-making and reconciliation rather than adversarial adjudication. Disputes were resolved through dialogue, mediation, and community customs, reflecting an emphasis on restoring relationships rather than determining winners and losers.

Ancient legal texts such as the *Manusmriti*, *Narada Smriti*, and *Yajnavalkya Smriti* also highlighted the role of non-judicial dispute resolution. These scriptures classified disputes and provided guidelines on the use of mediation, conciliation, and arbitration-like processes. The *kulas*, *srenis*, and *pugas*—representing family groups, guilds, and trade associations respectively—acted as early institutional dispute resolution bodies. They heard disputes relating to trade, family matters, property, and social obligations. Their decisions were highly respected and often final.

These systems operated according to principles that resonate strongly with modern ADR values: flexibility, speed, mutual agreement, confidentiality, and social legitimacy. The emphasis on consensus and compromise made them effective tools for maintaining harmony in close-knit communities. Thus, long before codified law, India had a culturally embedded system of alternative dispute resolution.

1.2 Medieval Period and Continuity of Indigenous Mechanisms

During the medieval era, particularly under Mughal rule, indigenous dispute resolution remained largely intact. The Mughal legal administration operated under a mix of Islamic law and local customs, allowing considerable autonomy to traditional bodies. *Qazi* courts existed for formal adjudication, but they were complemented by community-led systems that handled everyday disputes.¹

The Mughal emperors, recognizing the efficiency of community resolution, often encouraged panchayats and local guilds to handle civil disputes. This created a multi-layered justice system in which formal courts and ADR-like mechanisms coexisted. Notably, trade guilds (*srenis*) played a critical role in resolving commercial disputes using negotiation and arbitration principles—practices that find parallels in modern commercial arbitration.

Thus, despite political changes, indigenous dispute resolution methods retained their relevance and societal acceptance, signaling their deep entrenchment in India's socio-legal landscape.

1.3 Colonial Rule and the Transformation of Dispute Resolution

The advent of British rule in the eighteenth and nineteenth centuries marked a significant shift in India's legal system. The British introduced a centralized, hierarchical court structure modeled on English common law. While this system aimed to establish uniformity and legal certainty, it also marginalized indigenous and customary mechanisms that had governed Indian society for centuries.²

Initially, British administrators attempted to integrate elements of local customs into their judicial framework, but over time, the preference for formal adjudication became more pronounced. Codification efforts—such as the Indian Penal Code (1860), Civil Procedure Code (1859 and later 1908), and Evidence Act (1872)—further displaced local dispute resolution traditions by imposing uniform procedural requirements.

However, the British were not entirely dismissive of non-adjudicatory methods. They recognized the need for alternative mechanisms to manage commercial and civil disputes more efficiently, particularly in matters involving trade and mercantile relations. This led to early legislative initiatives that introduced structured arbitration into Indian law.

¹ Baxi, U. (1982). *The Crisis of the Indian Legal System*. Vikas Publishing.

² Singh, A. (2019). "Colonial Arbitration Laws in India." Indian Journal of Legal History, Vol. 3.

1.4 Early Legislative Foundations of Arbitration

The first statutory recognition of arbitration in British India came through:

1. **The Bengal Regulations of 1772 and 1781**, which permitted arbitration in certain civil disputes upon mutual consent of the parties.
2. **The Civil Procedure Codes of 1859 and 1882**, which included provisions allowing courts to refer disputes to arbitration.
3. **The Indian Arbitration Act of 1899**, the first dedicated and comprehensive legislation on arbitration, though initially applicable only to the three presidency towns: Bombay, Calcutta, and Madras.
4. **The Second Schedule of the Civil Procedure Code, 1908**, which extended arbitration related provisions to other parts of India.

These statutes introduced several key principles that influenced modern arbitration practice: party autonomy, consensual submission to arbitration, enforceability of arbitral awards, and limited judicial intervention. However, arbitration during this period was still heavily controlled by courts, and its use was limited mostly to commercial disputes among traders, businesses, and colonial enterprises.

1.5 Limitations of ADR During Colonial Rule

Despite legislative recognition, ADR in colonial India faced several challenges:

- **Marginalization of Indigenous Systems:** Traditional panchayats and community tribunals were increasingly delegitimized under the British legal apparatus.
- **Judicial Control:** Early arbitration laws lacked independence and were supervised extensively by courts, reducing their attractiveness.
- **Limited Awareness:** ADR was not widely known or used outside urban commercial circles.
- **Cultural Distrust of Formal Arbitration:** Many Indians were unfamiliar with British style arbitration, leading to continued reliance on informal community-based methods.

Thus, the colonial ADR framework existed alongside, but largely disconnected from, the indigenous systems that had long served Indian society.

1.6 Legacy of the Pre-Independence Era

By the time India gained independence in 1947, the country possessed a dual legacy. On one hand were **traditional, community-based dispute resolution mechanisms** rooted in centuries of custom and consensus. On the other was a **formal, statute-based arbitration system** influenced by British legal principles. This duality laid the foundation for the development of modern ADR in post-independence India.

The historical evolution reveals that ADR is not an imported concept but a revival and modernization of indigenous practices. The pre-independence era thus played a pivotal role in shaping the philosophy, structure, and acceptance of ADR in contemporary India. Understanding this era provides essential insight into how ADR evolved into a formal legal and institutional framework in the 20th and 21st centuries.

Post-Independence Developments (1947-1980s)

The period following India's independence in 1947 marked a significant transformation in the country's legal system. The newly independent Indian state was tasked with rebuilding its social, economic, and political structures, and this included modernizing its judicial and dispute resolution mechanisms. The Indian judiciary was based on the British model, but it was now subject to constitutional principles enshrined in the **Indian Constitution of 1950**, which guaranteed fundamental rights, justice, and due process. Despite this robust constitutional framework, India's formal judicial system quickly became burdened with a heavy caseload. Over time, the inefficiencies of the formal court system, such as long delays and high costs, highlighted the need for alternative mechanisms to deliver timely justice. In this context, the development of **Alternative Dispute Resolution (ADR)** became crucial to reducing the burden on courts and ensuring greater access to justice.³

2.1 The Early Post-Independence Judicial System

After independence, India inherited a judicial system largely rooted in colonial traditions. While the Constitution guaranteed citizens the right to approach the courts, the sheer volume of cases led to significant delays in legal proceedings. By the 1950s and 1960s, the courts were overwhelmed by the increasing number of civil, criminal, and family disputes, exacerbating the problem of backlog. The heavy workload of the judiciary made the formal process of adjudication cumbersome, and citizens often had to wait years, if not decades, for their cases to be resolved. This highlighted the need for more efficient dispute resolution methods.

India's legal system was primarily adversarial, with litigation as the dominant mode of dispute resolution. However, the **fundamental rights guaranteed by**

the Constitution and the desire for social justice created an awareness of the necessity to ensure timely and affordable justice for all citizens, particularly the poor and marginalized. This led to the early advocacy for alternative forms of dispute resolution that could reduce court congestion and provide access to justice without formal litigation.

2.2 The Legal Services Authorities Act, 1987: A Step Toward ADR

One of the earliest legal reforms aimed at promoting ADR in post-independence India was the **Legal Services Authorities Act, 1987**, which sought to provide free legal services to the underserved sections of society and facilitate speedy dispute resolution. The Act laid the foundation for **Lok Adalats** (People's Courts) and **Legal Aid Services**, which were designed to resolve disputes outside the formal judicial process. The Legal Services Authorities Act was a landmark development because it recognized ADR as an integral part of India's justice system, formalizing mechanisms like conciliation, mediation, and settlement.

³ Rao, N. (1995). "Arbitration Act, 1940: A Critical Review." Journal of Indian Law Institute, Vol. 37.

Lok Adalats: A Revolutionary Step in ADR

The **Lok Adalat** (People's Court) concept was rooted in the Indian tradition of community based dispute resolution, resembling the *panchayat* system but with a modern, statutory framework. Lok Adalats were established under the Legal Services Authorities Act to help resolve disputes in a non-adversarial manner, offering an accessible and informal way of settling civil and family disputes. They provided a forum for **conciliation and compromise** rather than adversarial litigation.

Lok Adalats were particularly effective in dealing with disputes related to **family matters, labour issues, consumer complaints, and property disputes**, especially for the marginalized and economically disadvantaged sections of society who otherwise had limited access to the formal court system. They functioned through a **panel of conciliators** who would attempt to mediate the dispute and facilitate a mutually agreeable settlement. Importantly, Lok Adalat decisions were legally binding, which enhanced their credibility and authority.

Lok Adalats not only alleviated the burden on courts but also encouraged a culture of amicable dispute resolution, reflecting the Indian values of reconciliation, cooperation, and social harmony.

2.3 Arbitration in the Post-Independence Legal Framework

While **Lok Adalats** represented a grassroots movement toward ADR, arbitration also began to gain prominence as an alternative dispute resolution mechanism in the 1950s and 1960s, especially in commercial matters. As India's economy grew, the volume of commercial transactions increased, leading to a need for quicker and more efficient dispute resolution mechanisms in business and trade.

The first significant legislative move toward formalizing arbitration came with the enactment of the **Indian Arbitration Act of 1940**. The Act was influenced by the British Arbitration Act of 1889 but adapted to the Indian context. Although the Act provided a basic legal framework for arbitration, it had several limitations, such as allowing excessive judicial intervention and lacking clear provisions for the enforcement of arbitral awards.

In the post-independence era, **arbitration** was primarily used in **commercial disputes** between businesses, traders, and corporations, especially in metropolitan cities like Bombay (now Mumbai), Calcutta (now Kolkata), and Madras (now Chennai). The courts would often intervene to ensure the fairness of arbitration proceedings, leading to concerns about the neutrality and independence of arbitration panels. The arbitration process was not yet a popular or efficient alternative to formal litigation, as the courts' oversight limited the flexibility of the process.

2.4 The 1970s and 1980s: Legal Reforms and the Push for ADR

By the 1970s and 1980s, it was becoming increasingly clear that India's judicial system could not handle the growing number of cases through formal litigation alone. The cost and delay in obtaining justice through the courts, coupled with the slow pace of case disposal, prompted legal reformers and policymakers to focus on alternative methods of dispute resolution, including arbitration, mediation, and conciliation.

In 1976, the **Indian Law Commission** published its **48th Report**, which recommended major changes to the arbitration system to reduce judicial intervention and make arbitration more effective. The Law Commission's report emphasized that arbitration should be given a greater role in both domestic and international disputes, and the judicial interference that had characterized earlier arbitration proceedings needed to be minimized.

The 1980s witnessed the first significant reforms in Indian arbitration law. The **Arbitration (Amendment) Act, 1983** was passed to address some of the limitations of the 1940 Act, including reducing the scope of judicial intervention and facilitating the enforcement of arbitral awards. However, the real game-changer came with the **Arbitration and Conciliation Act, 1996**, which

modernized India's arbitration laws and aligned them with international standards, such as the **UNCITRAL Model Law on International Commercial Arbitration**.

This period also saw the introduction of **conciliation** as a statutory process, particularly in the context of labor disputes, where the Industrial Disputes Act, 1947, provided for conciliation proceedings to settle disputes between employers and workers. Conciliation, in this framework, played a significant role in reducing industrial unrest and promoting industrial harmony.

2.5 Challenges and Limitations in the 1947-1980s Period

Despite these positive developments, the adoption of ADR in India during this period faced several challenges:

- **Lack of Awareness:** Many litigants and legal professionals were unfamiliar with ADR processes, and there was a general resistance to alternative methods of dispute resolution.
- **Limited Reach:** ADR mechanisms, such as arbitration and conciliation, were often restricted to specific sectors, particularly commercial and labor disputes, and did not gain widespread use in other areas of law.
- **Perceived Informality:** There was a perception that ADR mechanisms, such as Lok Adalats, were too informal and lacked the legal rigor required for significant legal disputes. This limited their appeal to more complex matters.
- **Judicial Control:** The judiciary's involvement in arbitration and conciliation processes was often seen as a hindrance to the independence of these mechanisms. While reforms sought to reduce judicial interference, the courts still played an important role in enforcing awards and overseeing proceedings, which discouraged some from fully embracing ADR.

The Modern Era of ADR in India (1990s – Present)

The 1990s heralded a significant turning point for India's economy and legal system. With the **economic liberalization of 1991**, India integrated itself into the global economy, leading to rapid growth in trade, investment, and commerce. This new economic landscape demanded a more efficient and internationally recognized dispute resolution framework. At the same time, the Indian judiciary continued to struggle under an ever-increasing caseload, further underscoring the need for alternatives to formal litigation. The decade witnessed the emergence of **arbitration, mediation, and conciliation** as institutionalized, legal, and often preferred methods of resolving disputes.

During this period, ADR mechanisms not only grew in importance but also became institutionalized through legislative reforms, judicial encouragement, and the introduction of newer techniques like **Online Dispute Resolution (ODR)**. The 1990s through the present day saw India's ADR system take its current shape, characterized by a commitment to international standards, greater accessibility, and an increased focus on resolving disputes in a time-bound, cost-effective manner.

3.1 Economic Liberalization and the Need for ADR

The **economic liberalization of the early 1990s** transformed India's business environment. With the opening up of sectors to foreign investment, liberalization of trade, and the emergence of India as a global player, India's legal framework needed to evolve in order to address the complex disputes arising from an increasingly globalized economy. Foreign investments, joint ventures, and international business agreements were on the rise, and these required efficient, quick, and internationally accepted methods of resolving disputes.

International businesses, particularly multinational corporations (MNCs), sought dispute resolution mechanisms that were faster and more neutral than the traditional court system. Arbitration became the preferred choice for resolving commercial disputes in India due to its **party autonomy, flexibility, and the enforceability of awards** across borders. The establishment of **international arbitration centers** in India, such as the **Mumbai Centre for International Arbitration (MCIA)** and the **Delhi International Arbitration Centre (DIAC)**, provided a conducive environment for resolving cross-border disputes in a streamlined manner.⁴

3.2 The Arbitration and Conciliation Act, 1996: A

Milestone Reform ⁴ Legal Services Authorities Act, 1987.

National Legal Services Authority.

One of the most significant legislative reforms in the modern era was the

Arbitration and Conciliation Act, 1996. This law was a direct response to the growing demand for a robust, globally recognized arbitration system that could accommodate both domestic and international commercial disputes. The Act was based on the **United Nations Commission on International Trade Law (UNCITRAL) Model Law**, aligning India's arbitration law with global best practices.

Key Features of the 1996 Act:

- **Party Autonomy:** The Act gave parties the freedom to choose their arbitrators and design the procedure for arbitration.
- **Limited Judicial Intervention:** One of the central tenets of the 1996 Act was to minimize judicial interference in arbitration proceedings, with courts stepping in only to enforce arbitral awards or address issues related to the validity of the arbitration agreement.
- **Enforceability of Arbitral Awards:** The Act provided clear guidelines for the enforcement of domestic and foreign arbitral awards, ensuring that arbitral decisions were legally binding and executable in the same manner as court judgments.
- **Mediation and Conciliation:** The Act introduced provisions for **conciliation**, a non adversarial process where a neutral third party helps the disputing parties reach an amicable settlement. The Act also emphasized the **binding nature of settlement agreements** arrived at through conciliation.

The 1996 Act marked the beginning of a more comprehensive approach to ADR in India, recognizing arbitration as a central tool for resolving business, commercial, and contractual disputes. It created a legal framework that was acceptable both domestically and internationally, attracting global investors who had previously been hesitant to engage in India due to concerns about the slow pace of the court system.

3.3 The Rise of Mediation and the Role of the Judiciary

While arbitration became popular in commercial disputes, **mediation** and **conciliation** were gaining traction as equally important methods of dispute resolution in India, particularly in civil, family, and labor disputes. By the early 2000s, India's judiciary began to formally embrace **mediation** as a method of resolving disputes, recognizing its potential in reducing the heavy burden on courts and promoting quicker settlements.

Judicial Support for Mediation:

- The **Supreme Court of India**, under the leadership of then Chief Justice **R.C. Lahoti**, established the **Mediation and Conciliation Project Committee (MCPC)** in 2005 to explore the feasibility of promoting mediation in India. The MCPC's efforts included **training mediators**, establishing mediation centers across the country, and creating guidelines for mediation practice in India.⁵
- The **Judicial Reference**: In **2003**, the Supreme Court referred disputes from high profile cases to **mediation**, showcasing judicial confidence in mediation as a legitimate alternative to litigation.

The introduction of **Section 89** to the **Civil Procedure Code (CPC) of 1908** in **2002** mandated that courts explore alternate methods of dispute resolution, including **mediation, conciliation, arbitration, and lok adalats**, before proceeding with trials. Section 89 reflected a significant shift in India's judicial approach, encouraging settlement and dispute resolution outside the courtroom. It promoted mediation as a method of resolving disputes where both parties agreed to participate in a voluntary, non-adversarial process to settle their issues amicably.

Mediation Centres:

Numerous **mediation centers** were set up in major cities such as Delhi, Mumbai, and Bangalore, offering a venue for parties to resolve disputes in a less formal environment than courts. By the early 2010s, **court-annexed mediation** became a regular feature in the Indian judicial system, with courts increasingly referring cases to mediation centers as a way to expedite dispute resolution.

3.4 Legislative Developments in the 2010s and the Mediation Act, 2023

As mediation gained prominence, legal reforms continued to advance in the 2010s to promote alternative dispute resolution. In 2015, the **Commercial Courts, Commercial Division, and Commercial Appellate Division of High Courts Act** was enacted to facilitate the speedy resolution of commercial disputes. This Act encouraged the use of arbitration and mediation and mandated time limits for the disposal of cases in commercial courts.

In 2023, India took a significant step toward establishing a more structured and formal framework for mediation with the **Mediation Act, 2023**. This Act laid down specific guidelines for the practice of mediation, addressing issues related to the **training of mediators**, the **confidentiality of the process**, and the **enforcement of mediation agreements**. The Mediation Act, 2023 is designed to make India an attractive destination for international dispute resolution, ensuring that mediators follow established standards and practices.

3.5 Online Dispute Resolution (ODR): The Future of ADR in India

In recent years, **Online Dispute Resolution (ODR)** has emerged as a revolutionary tool for resolving disputes, especially in light of the **COVID-19 pandemic**, which accelerated the adoption of digital technologies in all sectors of society, including justice delivery. ODR combines traditional ADR principles with technology to offer parties a platform for resolving disputes through online arbitration, mediation, and conciliation.

ODR is particularly useful in **consumer disputes**, **e-commerce transactions**, and **small claims**, where the parties are often located in different regions or countries. ODR platforms

⁵ Mediation Act, 2023. Gazette of India, Ministry of Law and Justice. allow parties to resolve disputes through **video conferencing**, **email communication**, and **electronic submission of documents**, making the process more accessible, cost-effective, and efficient. Various startups and organizations, such as **Sama**, **e-courts**, and **The National ODR Portal**, have played pivotal roles in the development and promotion of ODR in India.

3.6 Challenges and Opportunities

Despite these advancements, India's ADR system still faces challenges:

- **Awareness:** Many people remain unaware of ADR processes or are reluctant to use them due to traditional mindsets that view litigation as the primary method of dispute resolution.
- **Training and Standardization:** The lack of well-established **training programs** and **standards for ADR practitioners** (especially mediators and conciliators) remains an obstacle to the widespread acceptance and effectiveness of ADR.
- **Quality of ADR Institutions:** While institutions like MCIA and DIAC have emerged as trusted bodies, there remains a need for greater regulation and standardization across the board to ensure high-quality ADR practices.
- **Judicial Overreach:** Despite reforms to limit judicial intervention, courts still exercise significant control over the ADR process, leading to concerns about independence and the speed of dispute resolution.

However, these challenges present **opportunities for growth** in the ADR sector, particularly with the increasing digitization of legal processes, the growing acceptance of ADR in business and government, and a broader cultural shift

toward non-adversarial conflict resolution.

Challenges and Future Directions for ADR in India

While Alternative Dispute Resolution (ADR) in India has made considerable strides in recent decades, several challenges remain that hinder its full potential. Despite the advancements in legislative frameworks, judicial support, and public awareness, ADR mechanisms like arbitration, mediation, and conciliation continue to face significant hurdles in terms of accessibility, efficiency, and acceptance across different sectors of society. This chapter discusses the challenges that ADR faces in India today and explores potential solutions and future directions for its growth and development.

Key Challenges Facing ADR in India

4.1.1 Awareness and Access to ADR

One of the most significant barriers to the widespread adoption of ADR in India is the lack of **awareness** among the general public, businesses, and even some legal professionals. While urban centers like Delhi, Mumbai, and Bangalore have seen growing recognition of ADR methods, many people in rural and underserved areas remain unfamiliar with ADR mechanisms or do not trust them as legitimate alternatives to court-based resolution. In particular, the **lack of legal literacy** among the general population leads to a preference for litigation over ADR, despite the latter's many benefits, such as cost-effectiveness and quicker resolution times.

Moreover, **access to ADR services** remains concentrated in metropolitan cities. There is a stark imbalance in the availability of ADR institutions between urban and rural India. ADR mechanisms, such as **mediation centers** and **arbitration institutions**, are often located in large cities, making it difficult for people in rural or remote areas to use these services.

4.1.2 Quality and Training of ADR Professionals

While ADR has been institutionalized through various legislative measures, the **quality and training of ADR professionals** remains an ongoing challenge. The **lack of standardized training** for mediators, conciliators, and arbitrators leads to inconsistencies in the quality of ADR processes. Inadequately trained professionals may fail to facilitate meaningful discussions or resolve disputes effectively, undermining the credibility of ADR mechanisms.

While there are several training programs and courses on ADR (such as those provided by the **Indian Institute of Arbitration and Mediation** and other legal

bodies), these remain **limited in reach** and are not uniformly regulated. The absence of standardized qualifications for ADR professionals makes it difficult to establish a **universal benchmark** for excellence. Additionally, the field is still evolving, and there is a need for greater emphasis on **continuous professional development** to ensure that ADR professionals are up to date with international standards and best practices.

4.1.3 Judicial Interference and Overreach

Despite legislative reforms aimed at limiting judicial intervention in ADR processes (particularly arbitration), the Indian judiciary continues to exercise substantial oversight. This judicial overreach remains a significant concern for the integrity and effectiveness of ADR mechanisms. While judicial involvement is necessary to ensure fairness, excessive intervention often undermines the **autonomy of the ADR process** and delays the resolution of disputes.

The **enforcement of arbitral awards** is another area where judicial intervention can be problematic. The **Arbitration and Conciliation Act, 1996**, was designed to minimize judicial interference, but in practice, courts frequently intervene in cases of non-enforcement of awards, challenging arbitral decisions on grounds such as **public policy** or **procedural errors**. This undermines the principle of finality, a key advantage of arbitration over traditional litigation.

4.1.4 Infrastructure and Institutional Challenges

Although institutions like the **Delhi International Arbitration Centre (DIAC)** and the **Mumbai Centre for International Arbitration (MCIA)** have made important contributions to the growth of ADR in India, the **infrastructure and institutional support** for ADR remain insufficient. There is a need for the creation of more **dedicated ADR facilities**, especially in tier-2 and tier-3 cities, to make ADR accessible to a larger number of people. Furthermore, **backlogs in arbitration cases**, although less severe than in the courts, have been reported in

some ADR institutions, suggesting that the current infrastructure is still not fully equipped to handle the increasing demand.

The **lack of transparency** in the functioning of some ADR institutions also remains a significant issue. While some arbitration centers are well-regulated, others suffer from a lack of accountability, which can erode trust in the ADR process.

4.2 Future Directions for ADR in India

4.2.1 Strengthening Legal Framework and Policy Support

To address the challenges facing ADR, **legislative and policy reforms** are

essential. While the **Arbitration and Conciliation Act, 1996**, has provided a strong foundation, there is a growing need for updates and amendments to address new issues that have arisen, particularly in relation to international arbitration and **online dispute resolution (ODR)**.

In particular, India could benefit from further reforms to:

- **Expand the scope of arbitration** to include new areas such as **consumer disputes** and **family law matters**, which are currently excluded from most ADR processes.
- **Streamline procedures** for the enforcement of **arbitral awards**, reducing the possibility of judicial interference and making arbitration more attractive for international businesses.
- **Enhance the use of technology** in ADR, including integrating **artificial intelligence (AI)** and **machine learning** to help automate parts of the ADR process, such as the identification of relevant case precedents or the initial stages of mediation.

4.2.2 Expanding Access to ADR in Rural Areas

For ADR to have a meaningful impact, it must be accessible to all sections of society, especially the underserved rural populations. **Government and private sector initiatives** should focus on expanding the reach of ADR services to smaller towns and villages by:

- **Establishing mobile ADR units** that can travel to remote areas and conduct dispute resolution processes on-site.
- **Leveraging technology** to enable **virtual mediation** and arbitration, particularly in cases involving consumer disputes or smaller commercial matters, to bridge the accessibility gap.
- **Raising awareness** through grassroots campaigns and **legal literacy programs** to inform the public about the advantages of ADR over litigation.

4.2.3 Increasing the Pool of Qualified ADR Professionals

To improve the quality of ADR proceedings, India needs to invest in **training and certifying ADR professionals**. The establishment of formal certification processes and **continuing education programs** for arbitrators, mediators, and conciliators will ensure that ADR processes are handled by competent and skilled professionals.

Additionally, **cross-border training programs** can help develop ADR professionals who are well-versed in both Indian and international legal

standards. Collaborations with international ADR organizations such as the **International Chamber of Commerce (ICC)**, the **International Court of Arbitration (ICA)**, and the **United Nations Commission on International Trade Law (UNCITRAL)** can further improve India's ADR ecosystem.

4.2.4 Integrating Technology and Online Dispute Resolution (ODR)

The future of ADR in India is increasingly intertwined with **technology**. The use of **Online Dispute Resolution (ODR)** platforms has grown significantly, especially in the context of the **COVID-19 pandemic**, which necessitated remote dispute resolution. India's legal system can further integrate ODR into its ADR infrastructure by:

- **Developing dedicated ODR platforms** that cater to different types of disputes, from **consumer grievances** to **commercial contracts**.
- **Creating a national policy** to support the use of ODR in various sectors, including e-commerce, labor disputes, and family law.
- **Ensuring data protection and privacy** in ODR processes, which will help build trust in the system and increase participation.

4.2.5 Promoting ADR in Family and Consumer Disputes

While arbitration has found success in commercial disputes, ADR mechanisms like **mediation** and **conciliation** have shown immense promise in resolving **family disputes** (e.g., divorce, child custody, inheritance) and **consumer disputes**. The **Mediation Act, 2023**, which formalized mediation in India, marks a significant step in this direction. However, more attention should be given to these areas, especially by:

- **Promoting specialized mediation programs** for family and consumer disputes, with trained mediators who can address the unique emotional and social dynamics of such cases.
- **Incentivizing the use of ADR** in consumer complaints by making it more cost-effective, quicker, and less adversarial than going to court.

Institutional Growth of ADR in India

The evolution of Alternative Dispute Resolution (ADR) in India cannot be understood without examining the steady and strategic rise of **institutional mechanisms** that support arbitration, mediation, conciliation, Lok Adalats, and more recently, online dispute resolution (ODR). While early ADR efforts in India focused primarily on statutory provisions and court-driven initiatives, the

late twentieth and early twenty-first centuries witnessed the establishment of **specialized ADR institutions** designed to provide infrastructure, professional support, and standardized procedures for dispute resolution. This institutional growth reflects India's transition from informal, ad hoc dispute resolution to a structured, globally aligned ADR ecosystem.⁶

5.1 Early Institutional Efforts and the Role of Courts

In the decades following independence, India's courts took the lead in encouraging alternative mechanisms for dispute resolution. Before the establishment of specialized ADR centers, **court-annexed ADR** served as the primary institutional model.

5.1.1 Court-Annexed Mediation Centres

Following the introduction of **Section 89 of the Code of Civil Procedure (CPC)** in 2002, courts began to set up mediation centers within court premises to facilitate referrals made by judges. Notable early initiatives include:

- **Delhi High Court Mediation and Conciliation Centre (Samadhan)** – Established in 2006, it became one of the most successful court-annexed mediation centers, resolving thousands of civil and matrimonial disputes.
- **Bangalore Mediation Centre (BMC)** – Recognised for its structured training programs and high settlement rates.
- **Madras High Court Mediation Centre** – Known for standardizing mediation protocols and mediator training.

These centers introduced systematic mediation services and played an important role in spreading public awareness and building confidence in ADR.

5.1.2 Lok Adalats and Permanent Lok Adalats

Under the **Legal Services Authorities Act, 1987**, **Lok Adalats** gained statutory recognition and became a widespread institutional form of ADR. Permanent Lok Adalats were later established to handle disputes related to public utility services. Lok Adalats rapidly grew into one of India's largest ADR institutions, resolving millions of cases every year, especially minor civil disputes, motor accident claims, and family matters.

5.2 Emergence of Arbitration Institutions in the 21st Century

As India liberalized its economy and increased participation in global markets,

the need for **professionalized arbitration centers** capable of administering domestic and international cases became urgent. This led to the establishment of several major arbitration institutions.

5.2.1 Indian Council of Arbitration (ICA)

Established in 1965 by the Federation of Indian Chambers of Commerce and Industry (FICCI), the **ICA** is one of India's earliest arbitration bodies. Its institutional rules, panels of arbitrators,

⁶ **Mumbai Centre for International Arbitration**

and training programs helped create a foundation for modern arbitration. However, it was with the 1996 Arbitration Act that ICA's role expanded significantly, particularly in international commercial disputes.

5.2.2 International Centre for Alternative Dispute Resolution (ICADR)

Formed in 1995 with the support of the Government of India and the Chief Justice of India, ICADR was one of the first government-driven ADR institutions. Its aim was to promote arbitration, conciliation, and mediation in line with the UNCITRAL Model Law. Although influential in its early years, ICADR later faced issues with caseload and modernization, but it remains an important part of India's ADR ecosystem.

5.2.3 Mumbai Centre for International Arbitration (MCIA)

Established in 2016, the **Mumbai Centre for International Arbitration (MCIA)** is considered a turning point in India's institutional arbitration landscape. MCIA was created to position India as an international arbitration hub and reduce the flow of India-related arbitration to foreign centers like Singapore or London.

MCIA introduced:

- globally aligned arbitration rules,
- time-bound procedures,
- transparent fee structures,
- an experienced panel of arbitrators,
- world-class infrastructure,
- and e-arbitration facilities.

MCIA has handled several high-value commercial disputes and is regarded as a credible alternative to international institutions.

5.2.4 Delhi International Arbitration Centre (DIAC)

Launched by the Delhi High Court in 2009, **DIAC** is one of the most active institutional arbitration centers in India. With modern facilities, standardized rules, and efficient administration, DIAC handles both domestic and international disputes. It also conducts training sessions and collaborates with foreign ADR bodies.

5.2.5 Nani Palkhivala Arbitration Centre (NPAC)

Established in Chennai in 2005, NPAC is a non-profit, independent arbitration institution known for:

- robust training programs,
- recognized arbitration rules,
- and a panel of experienced arbitrators.

NPAC caters primarily to commercial disputes and contributes significantly to capacity building in the ADR field.⁷

5.3 Institutionalization of Mediation

While arbitration institutions developed rapidly, **mediation** also saw formal institutional growth.

5.3.1 Mediation and Conciliation Project Committee (MCPC)

Formed in 2005 by the Supreme Court of India, the **MCPC** became the primary coordinating body for mediation in India. Its contributions include:

- standardizing mediator training programs,
- establishing mediation centers nationwide,
- implementing court-annexed mediation guidelines,
- and promoting community mediation programs.

MCPC played a central role in preparing the framework that ultimately led to the **Mediation Act, 2023**, India's first dedicated legislation for mediation.

5.3.2 Private Mediation Institutions

Several private bodies have played crucial roles in institutionalizing mediation:

- **Centre for Advanced Mediation Practice (CAMP), Bangalore** –

Established by leading mediators, regarded as a pioneer in private commercial mediation.

- **Indian Institute of Arbitration and Mediation (IIAM), Kochi** – Offers mediation and ADR training accredited by international bodies.
- **FICCI and ASSOCHAM Mediation Centres** – Focus on resolving commercial and business disputes.

These institutions have helped professionalize mediation and build public trust.

5.4 Growth of Online Dispute Resolution (ODR) Institutions

With the advent of digital transformation and the demands of the COVID-19 pandemic, **Online Dispute Resolution (ODR)** emerged as a major institutional category.

⁷ SIAC India Desk. <https://siac.org.sg>

5.4.1 Key ODR Platforms in India

- **Sama ODR** – Handles consumer disputes, e-commerce complaints, microfinance issues, and insurance matters.
- **Presolv360** – Specializes in commercial mediation and arbitration through digital platforms.
- **CADRE** – Focuses on real estate and rental disputes.
- **Odr court** – Provides e-arbitration and e-mediation tools for businesses.⁸

ODR institutions align with global best practices and have dramatically improved access by offering:

- virtual hearings,
- digital submission of evidence,
- algorithm-assisted negotiation tools,
- and lower costs.

5.4.2 Government Initiatives in ODR

India's judiciary and government bodies have also taken major steps:

- The **Supreme Court's e-Committee** introduced guidelines for virtual mediation and arbitration.
- NITI Aayog's 2021 report advocated national ODR adoption, especially for

small-value disputes.

- Several ministries, including consumer affairs and corporate affairs, have partnered with ODR platforms.

Thus, ODR institutions are poised to become vital components of the justice ecosystem.

5.5 Academic and Training Institutions Supporting ADR Growth

Institutes like **National Law Universities (NLUs)**, **Indian Institutes of Management (IIMs)**, and **Bar Council of India (BCI)**-affiliated law colleges have played a major role in mainstreaming ADR by offering:

- diploma courses in arbitration and mediation,
- ADR clinics and centers,
- negotiation competitions,

⁸ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction*, (2010) 8 SCC 24.

- and training programs certified by international bodies.

This educational foundation strengthens the institutional framework by creating a large pool of trained professionals.

5.6 The Impact of Institutional ADR Growth

Institutionalization has significantly enhanced the credibility and efficiency of ADR in India. Its impacts include:

- greater **professionalization** and ethical standards,
- reduced **case backlogs**,
- improved **investor confidence**,
- increased **international recognition**,
- and standardized **procedural rules** for predictability.

These developments represent India's shift toward a modern, globally integrated dispute resolution framework.⁹

Conclusion

The evolution of ADR in India represents a narrative of rediscovery and modernization— rediscovery of indigenous values of consensus, fairness, and community justice, and modernization through statutory reforms, judicial endorsement, and institutional innovation. ADR today stands as a powerful complement to the overburdened court system, offering pathways that are not only faster and cost-effective but also more restorative and participatory.

India's aspiration to become a global dispute resolution hub depends on its ability to continue nurturing ADR institutions, ensuring quality and ethical standards, embracing technology, and fostering a culture that values collaboration over confrontation. With robust legislative frameworks, growing institutional infrastructure, and increasing recognition from both domestic and international stakeholders, ADR in India is well-positioned to meet the demands of the future.

Ultimately, the journey of ADR in India reflects the country's broader quest for accessible, efficient, and inclusive justice. As India continues to evolve, ADR will undoubtedly play a critical role in shaping a more responsive and dynamic dispute resolution ecosystem for generations to come.

⁹ BCCI v. Kochi Cricket Pvt. Ltd., (2018) 6 SCC 287.