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# IMPACT OF ALTERNATIVE DISPUTE RESOLUTION ON CIVIL SUIT DRAFTING

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## ABSTRACT

Alternative Dispute Resolution (ADR) becomes significantly important in the legal arena, particularly in civil litigation for the speed and inexpensiveness whereby it proffers a contrast to full court proceedings. This paper will examine ADR's intervention in civil suit drafting and how it affects a deviation from adversarial litigation to collaborative conflict resolution via arbitration, mediation, and conciliation. Good reasons to appeal to ADR mechanism: they offer privacy, expeditious dispute resolution, and release burden on the judiciary. For instance, appealing to various reports and analyses about ADR at the global level, the system has enjoyed substantial satisfaction from disputants. Similarly, well-established in government frameworks, it points out the reasons for appeal and popularity. The Constitution of India supports its development, coupled with proper frameworks of legislation, such as the Civil Procedure Code, of 1908, and the Mediation Act, of 2023. Such laws place ADR within the framework of the legal system, making it more accessible and formalized. ADR influence can also be seen in civil suit draftsmanship. Civil suits increasingly draw from other sources of language and structures which enhance negotiation, settlement, and minimal litigation, and a significant proportion of the ADR provisions of civil suits streamline the legal process, shorten the length of documents, and encourage cooperation between the parties over the dispute. Drafting this away-from-litigation-towards-resolution identifies faster settlement and effective management of cases as a feature that is distinguishing and salient in the evolution of ADR in the course of civil dispute resolution.

## **Introduction**

In this modern, globalized, and tech-driven world, some people find it hard to find the time to meet people in person but due to technology, it all has been easier because modern times allow people to communicate and settle business from anywhere and likewise the modern legal system is also changing because many individuals lack time to file papers and wait for the hearing. As a result the ADR mechanism is becoming much more popular than traditional litigation system, which has its drawbacks. While the world has not fully accepted the ADR but the legal system is starting to recognize its advantage in civil litigation.

Alternative dispute resolution (ADR) is a mechanism where the neutral third party helps the parties in dispute reach an agreement without litigation. ADR uses various techniques like mediation, conciliation, negotiation, arbitration, and Lok Adalat. These techniques help in cost and time efficiency and keep the confidentiality and privacy of the parties in dispute.

## **Understanding Alternate dispute resolution**

Despite very limited information sources of information about ADR, there are some government reports from various countries that talk about the advantages and disadvantages of ADR. Many studies by various professors, attorneys, and government officials have proven that ADR has been a highly satisfactory technique among complainants for dispute settlement. Professors O'Leary and Raines (2001) studied the ADR program at the U.S. Environmental Protection Agency and found high survey satisfaction with the fairness of the ADR proceedings and the number of settlement options available. Professors Riley, Prenzler, and McKillop (2020) compared the complaint cases from all over the police stations in Australia and found high satisfaction after complainants used ADR options. Similarly, attorneys Schiffer and Juni (1996) also made analyzation of cases using ADR in the U.S. Department of Justice. Also, they found high satisfaction among the complainants who used in-person mediation.

Even the Department of Legal Affairs in India said that the traditional mode of dispute resolution i.e. litigation is a long process that leads to unnecessary delays in justice and overburdening the judiciary in such scenarios the ADR is the best technique for dispute settlement.

Furthermore, "A study in the year 2021 published by the Administrative Conference of the

United States found out that the Federal agencies faced several hurdles which impacted the effectiveness of ADR. These hurdles included budgetary constraints, a lack of trained personnel, and levels of support from agency leadership (Blankley et al., 2021). The study recommended that Federal agencies increase their ADR program visibility (e.g., through their website, speeches, and press releases), increase interagency collaboration, improve data collection and reporting (e.g., feedback from ADR participants), and provide more comprehensive training for ADR practitioners, among other recommendations (Blankley et al., 2021).” This information is given by the Equal Employment Opportunity Commission (EEOC) of the United States in their report.

### **Alternate Dispute Redressal in India**

The constitution of India guarantees access to justice for everyone through Article 39A which ensures that no citizen should be denied justice due to economic or other disadvantages. As we all know in India many people face barriers in accessing justice due to poverty, illiteracy, ignorance, and other social issues due to which many cannot afford long legal battles or lawyers for courts, To address these issues the Government of India has been at the forefront of the promotion of Alternative Dispute Resolution Systems by enabling a legal framework for the resolution of disputes through Alternative Dispute Resolution (ADR) provided under Section 89, Civil Procedure Code, 1908 which recognizes Arbitration, Conciliation, Mediation, and Judicial Settlement including settlement through Lok Adalat.

Further, section 6 of the Mediation Act, 2023 enables the court to refer for mediation, if deemed appropriate, any dispute relating to civil offenses including the matrimonial offenses which are compoundable and pending between the parties. However, the outcome of such mediation shall be further considered by the court under the law for the time being in force. Therefore, the provisions of the Mediation Act of 2023 enable and recognize the settlement of civil offenses in terms of the provisions contained therein. The disposal of pending cases in courts including those which are compoundable lies within the exclusive domain of the judiciary. The Government has no direct role in the disposal of cases in courts. The Government, however, has been making constant endeavors to provide an ecosystem for the faster and more efficient disposal of cases by the judiciary. It has been a constant effort of the Government to reduce litigation in courts. Several efforts over the years, have been initiated in the country with the

vision to faster dispensation of Justice. This information was given by SHRI ARJUN RAM MEGHWAL in Rajya Sabha through a written reply.

### **Role of ADR in civil suits drafting**

The impact of ADR in civil suit drafting is significant, as it influences the both approach and content of legal documents. Alternate dispute resolution encourages a more collaborative approach to dispute resolution which influences the legal strategy and can lead to changes in how civil suits are drafted, attorneys may focus on creating documents that facilitate negotiation and settlement rather than solely preparing for the litigation, and due to this shift the legal documents may carry simplified languages to promote understanding and cooperation among the parties in dispute. The drafts will often include specific ADR provisions, outlining the processes for mediation or arbitration. The ADR typically leads to faster and less expensive resolution compared to traditional litigation which affects the civil suit drafting by reducing the length and creating emphasis on settlement terms.

The advantages of Alternate dispute resolution may encourage courts and parties to use its method to resolve the dispute and ADR may help in active case management of civil suits by;

- a) Encouraging the cooperation among the parties with each other in the conduct of the proceedings;
- b) Identifying the issues at an early stage;
- c) Deciding promptly which issues need full investigation and trial and accordingly disposing of the summarily of others;
- d) Dealing with the case without the parties needing to attend court;
- e) Giving direction to ensure that the trial of a case proceeds quickly and efficiently;
- f) Helping the parties to settle the whole part of the case;

Although ADR is different from traditional litigation but the lawyers and their parties must assist the court. The court can also contact the parties from time to time to monitor compliance with directions and the parties are required to respond to any such inquiries from the court.

## **Case Study**

### **Sundaram Finance Ltd. v. NEPC India Ltd. (1999)**

**Citation:** AIR 1999 SC 565

**Case Summary:** The case examined whether a party could request interim relief from the court before the initiation of arbitration proceedings under the Arbitration and Conciliation Act, of 1996. The Indian Supreme Court clarified that parties may seek interim measures of protection from the court under Section 9 of the Act, even if arbitration proceedings have not formally commenced.

#### **Significance to ADR and Civil Suit Drafting:**

**Supports ADR in Civil Proceedings:** This case supports the argument that if parties wish to pursue ADR, they can always resort to judicial intervention when necessary since, according to the PDF, ADR is an alternative procedure to conventional litigation but also a process that uses the legal framework when needed.

**Efficiency and fairness:** In this case, interim measures by courts play their role in the protection of the interests of parties to ensure efficiency and fairness in court procedure, especially when ADR mechanisms have not quite kicked in.

This decision alters the landscape in drafting civil suits and arbitration agreements as lawyers in most cases are en-fleeced in embedding clauses that indicate the right to interim relief, thus validating ADR's fluid integration into formal adjudication proceedings.

#### **Impact**

This has the effect of crystallizing the place of mechanisms for ADR in India, particularly regarding civil and commercial disputes, since structured yet adaptive strategies in resolving disputes are permitted. It shows that the courts facilitate mechanisms for ADR but at the same time uphold the rights of parties, leading to the developing practice of drafting civil suits with provisions that are ADR-focused.

## **Conclusion**

At last, the ADR is, therefore, changing the entire draft and procedural flow of civil suits, where settlement has superseded litigation. As ADR requires work in coordination, attorneys attempt to draft papers where the parameters of settlement along with mutual understanding form the crux of the discussion. This has been helpful to the judiciary that was suffering from backlogs of cases, for ADR lightens the burden by providing an alternative mode of access to justice. The legislative framework of India is quite accommodative toward ADR, as provisions under the Civil Procedure Code and the Mediation Act are directed toward making ADR readily accessible and well-integrated into civil litigation. ADR mechanisms, besides streamlining the process of dispute resolution, enhance the quality of justice in terms of the preservation of relationships between the litigants and respect for their privacy. The success of ADR in various jurisdictions is evident from the fact that high satisfaction rates are achieved by participants. As the practice evolves further, ADR slowly cedes to the new space for legal reforms stressing efficiency, access, and cooperative resolution. Finally, the aspect of ADR on civil suit drafting is a step towards a modernized, timely-justice-valuing legal system, and as ADR settles more profoundly in place, so will change the future of legal practice and civil dispute management in large ways.

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