
EASING THE BURDEN: HOW ADR SUPPORTS THE INDIAN JUDICIARY

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ABSTRACT

This paper explores the problems faced by Indian Judiciary due to overburdening of pending cases as well as upcoming cases. India, currently the most populous country in the world, is home to the largest democracy dedicated to serving its people, the judiciary plays vital role in upholding the Constitution, delivering justice and protecting citizen's rights. However, in recent decades, the Indian judiciary has faced increasing pressure due to a phenomenon known as docket explosion. With millions of pending cases, the judicial system is overwhelmed, impacting the government and citizens alike.

In this context, Alternate Dispute Resolution (ADR) emerges as a vital mechanism for resolving disputes outside the courtroom. By offering faster and more efficient outcomes, ADR helps reduce the burden on the judiciary and enhances its overall effectiveness. This paper explores how ADR functions and emphasizes its importance in alleviating the strain on the Indian judicial system. As population growth remains a defining feature of the nation, ADR becomes essential not only for reducing case backlogs but also for strengthening public trust in the justice system.

1. Introduction

India has witnessed an explosion of cases over the past 70 years. In 2023, India was ranked as the most populous country in the world. A status that has contributed significantly to the docket explosion, both in terms of pending cases and the increasing number of new filings. This growing caseload places immense pressure on the Indian judiciary. As population is a vital element for any nation's progress, ensuring access to justice for all is critical. The burden on courts has led to various challenges, and Alternative Dispute Resolution (ADR) can play a key role in alleviating this strain. According to the National Judicial Data Grid, the number of pending cases continues to rise, while the rate of contested case disposal remains low compared to uncontested ones-causing significant delays in justice delivery.¹

ADR provides mechanisms to resolve disputes without formal trials. Methods like arbitration, mediation, conciliation, negotiation and Lok Adalat not only help reduce the number of cases reaching the courts but also enable the judiciary to focus on more complex matters. By making the dispute resolution process faster, cost-effective, and more efficient, ADR supports the integrity of the Indian judiciary and ensures that justice is accessible, timely, and fair for all.

Why Indian Judiciary is overburdened?

- Shortage of appointment of judges: Currently, India has about 21 judges per million people, which is much lower than the 50 judges per million recommended by the backlog of cases.² It is making difficult for the judiciary to deliver timely justice.
- Population explosion: India is currently the most populated country in the world. With a growing population comes greater responsibility for the judiciary to handle cases efficiently and promptly. This surge in population not only brings in a rising number of new cases but also adds pressure to clear the already existing backlog.
- Less priority for disposal of old cases: Some cases in India have been pending for decades, which directly affects the citizen's right to timely justice. This prolonged delay undermines public confidence and gradually erodes trust in the judicial system.
- Court holidays: The Indian judiciary is currently burdened with over 5 crore pending cases across all levels of courts.³ In such a situation, it becomes crucial to prioritize

¹ National Judicial Data Grid, 2025, https://njdg.ecourts.gov.in/njdg_v3/

² Hindustan Times, Dec 8, 2023, <https://www.hindustantimes.com/cities/delhi-news/indias-judge-population-ratio-stands-at-21-law-minister-tells-ls-101702050805063.html>

³ Sanskriti IAS, <https://www.sanskritias.com/current-affairs/indian-judicial-system-struggling-with-pending-cases>

timely case resolution through effective measures, rather than continuing with frequent court holidays.

- **Inadequate infrastructure:** Many courts in Indian lack basic infrastructure, including adequate digital systems and staff support. This deficiency significantly delays the resolution of cases and hampers the overall efficiency of the judiciary.
- **Unawareness of ADR:** ADR provides parties with the opportunity to resolve disputes without having to file formal legal cases. It is essential to raise public awareness about these mechanisms, and the Government of Indian should take active steps to promote and implement ADR initiatives more widely.
- **Lengthy procedures:** The lengthy processes and slow delivery of judgments often result in the neglect of other pending cases. As a consequence, the number of undisposed cases in court far exceeds the number of cases the have been resolved.
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2. What is Alternative Dispute Resolution (ADR)

The core objective of Alternative Dispute Resolution (ADR) is to offer a means of settling disputes outside the formal court system. ADR can be used not only to resolve existing conflicts but also to prevent potential disputes from arising. This method has been practiced in India since ancient times and continues to play a vital role in the justice system today.

ADR is supported by Articles 14 and 21 of the Indian Constitution, which uphold the principles of equality before the law, the rights to life, and personal liberty.⁴ Additionally, Section 89 of the Civil Procedure Code (CPC) empowers courts to refer disputes for resolution through ADR mechanisms, if it appears that a mutually acceptable settlement is possible.⁵

ADR is commonly used to resolve civil, matrimonial, commercial, consumer, labor, motor accident and even certain compoundable criminal matters, offering an efficient and amicable alternative to lengthy courts procedures. Following are the types Alternative Dispute Resolution.

⁴ Constitution of India, art. 14, guarantees equality before the law and equal protection of the laws. Constitution of India, art. 21, ensures the right to the life and personal liberty except according to procedure established by law.

⁵ Code of Civil Procedure, 1908, s. 89.

- Arbitration: The Arbitration and Conciliation Act, 1996 governs arbitration in India.⁶ It allows disputes to be resolved outside the traditional court system through an unbiased third party known as the Arbitrator. The arbitrator listens to both the sides, reviews the evidence and makes a binding decision. The process is quicker, less formal and more cost-effective than traditional litigation.
- Mediation: In mediation, an independent third party known as the Mediator, helps the disputing sides find common ground. It's a peaceful and cooperative way of resolving conflicts, focused on the understanding and agreement. The process is voluntary and non-binding unless both the parties decide to sign an agreement. The Mediation Act, 2023 governs mediation in India.⁷
- Conciliation: Conciliation is a more informal method compared to mediation. A conciliator assists the parties in reaching a mutually agreeable solution to their dispute. The process is voluntary, non-binding and governed under the Arbitration and Conciliation Act, 1996.
- Negotiation: It is informal and private discussion between the parties to reach a mutual agreement without the involvement of any third party.
- Lok Adalat: Lok Adalat literally means 'People's Court'. It is an informal setting where disputes are resolved with the help of a panel of legal experts and judges. The process is speedy, low-cost, voluntary and focuses on resolving conflicts without creating ill will between the parties involved.

3. How ADR supports the Indian Judiciary.

- Reduces the filing of new cases: ADR helps to prevent disputes before they need the courtroom by resolving it as early as possible.
- Solves disputes without the need of formal trials: ADR solves disputes formally as well as informally without the need of formal trials. For example, Negotiation.
- Builds public trust: ADR offers efficient and effective solutions, ADR helps build confidence in the Indian Judiciary system by showing that justice can be time accessible and fair.
- Ensure speedy hearing: ADR provides speedy hearing as traditional trials can be time consuming and delayed.

⁶ Arbitration and Conciliation Act, 1996, governs the law related to domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards in India.

⁷ Mediation Act, 2023.

- Lowers legal costs: The cost of legal paper work is low. As ADR involves less documentation and more mutual understanding between the parties.
- Eases the burden on Indian courts: ADR supports Indian Judiciary by resolving the cases outside the courts and help legal courts to focus on complex cases.
- Supports the balance and efficiency: ADR helps by contributing to the efficient distribution of cases and balancing an ideal cases judge-to-case ratio in the Indian Judiciary.

4. Legal framework supporting ADR in India.

Various legal measures are taken by the Government of India to promote Alternative Dispute Resolution. The examples are as follow:

- Section 89 of the Civil Procedure Code, 1908: This section empowers courts to refer disputes for settlement through Alternative Dispute Resolution mechanisms such as arbitration, conciliation, mediation or judicial settlement if the court perceives a possibility of resolution. The objective is to reduce the burden on the judiciary and facilitate faster dispute resolution.
- Arbitration and Conciliation Act, 1996: The act governs both arbitration and conciliation in India. It provides a legal framework for domestic and international commercial arbitration and for the enforcement of foreign arbitral awards. The act also includes provisions for conciliation, encouraging amicable settlement without court intervention.
- Section 442 of the Indian Companies Act, 2013⁸: This provision establishes a Mediation and Conciliation Panel maintained by the Central Government. The panel assists in mediating disputes between parties involved in proceedings before the Central Government, Tribunal or Appellate Tribunal, helping to resolve Company related conflicts efficiently.
- The Commercial Courts Act, 2015⁹: Under Section 12A of this Act¹⁰, pre-institution mediation is mandatory for certain commercial disputes before a suit can be filed in

⁸ Companies Act, 2013, s. 442, provides for the constitution of a Mediation and Conciliation Panel to facilitate the amicable resolution of disputes pending before the NCLT or NCLAT; read with the Companies (Mediation and Conciliation) Rules, 2016.

⁹ The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

¹⁰ The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, S. 12A.

court, unless the matter requires urgent interim relief. This promotes mediation as a first step resolving commercial conflicts and helps reduce unnecessary litigation.

- India International Arbitration Centre Act, 2019¹¹: This act established the India International Arbitration Centre (IIAC) which aimed at promoting institutional arbitration in India. It provides a neutral and efficient platform for the resolution of commercial disputes as it also contributes to India's emergence as a global arbitration hub.
- The Mediation Act, 2023: The Mediation Act promotes mediation as a structured form of dispute resolution mechanism. It includes provisions for institutional mediation, enforcement of mediated settlement agreements, community mediation and online mediation. The act seeks to make mediation a widely accepted and cost-effective process.

5. Successful cases of ADR in India

- Keshub Mahindra v. Union of India, 1989¹²: In December 1984, a deadly gas leak from Union Carbide plant in Bhopal which caused deaths of 3,000 lives. Traditional courts could have stretched procedures for decades, delaying the compensation for those who needed it the most. In 1989, the Supreme Court of India stepped in and the dispute was settled through mediation. Union Carbide agreed to settlement of \$470 million. The amount was criticized as insufficient for the loss the tragedy caused. But the decision was made quickly without years of courtroom delays. It brought some form of relief to the victims and it was because of Mediation.
- MCGM v. Mumbai Slum Dwellers¹³: This case highlights the success of ADR mechanism like Lok Adalat in resolving issues that involves urban development, land rights and human rights. Through the Lok Adalat process, a settlement was reached that allowed for the rehabilitation and resettlement of the slum dwellers in a fair and just manner. The MCGM agreed to provide alternative housing and relocation in designated areas and the slum dwellers were able to secure legal rights over their new homes.
- Haresh Dayaram Thakur v. State of Maharashtra¹⁴: A successful conciliation case because the dispute between the parties was resolved through conciliation and the settlement reached was upheld by the Bombay High Court and later the Supreme Court.

¹¹ India International Arbitration Centre Act, 2019.

¹² Keshub Mahindra v. Union of India, (1989) 3 SCC 567.

¹³ MCGM v. Mumbai Slum Dwellers, (2007) 6 SCC 607.

¹⁴ Haresh Dayaram Thakur v. State of Maharashtra, (2000) 6 SCC 179

- *Bharat Aluminum Company v. Kaiser Aluminum*¹⁵: A commercial dispute between both the parties was settled without stepping out into a courtroom. Bharat Aluminum Company was based in India and Kaiser Aluminum was in USA. The disagreement revolved around the supply of aluminum and how its price should be adjusted. Both the parties chose to resolve the matter through international arbitration at the International Court of Arbitration in London, instead of dragging the matter through long legal procedure. This case showed the real example of quick, private and fair cross border conflict resolution through Arbitration.

Alternative Dispute Resolution has created hope to provide quick and fair disputes resolution through its various mechanisms like mediation, arbitration, conciliation, negotiation and Lok Adalat. In the country like India, where courtrooms are exploded with cases, ADR helps to ease the burden on the Judiciary. It also returns time, dignity, justice and peace to the people who need the most.

6. Conclusion

The burden on the Indian Judiciary exploded due to rapidly growing population and the increasing number of new cases. Alternative Dispute Resolution is a key solution to reduce the burden on the Indian Judiciary. Through methods such as arbitration, mediation, conciliation, negotiation and Lok Adalat, ADR provides a cost-effective, efficient, fair, effective and timely alternative to traditional litigation. It also provides access to justice for the greater masses. By reducing the number of cases filed in courts, promoting quick resolutions, enhancing the trust of public, ADR plays a crucial role to strengthen the functioning of Indian Judiciary. Efforts from legal professionals, government and public, ADR has the potential to contribute significantly to addressing the backlog of cases, ultimately ensuring that justice is delivered more effectively for those in need. As the country moves forward, expanding and promoting ADR can prove to be a vital step towards a more accessible and fair judicial system for all the citizens.

¹⁵ *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services.*, (2012) 9 SCC 552.

Bibliography

Avtar Singh, Law of Arbitration and Conciliation (11th edn, Eastern Book Company, 2018).

S.K. Verma, "Role of ADR in Reducing Burden on Indian Judiciary", (2017) 59 Journal of Indian Law Institute 101.

Nadja Alexander, "Mediation in India: Promise and Problems", NYLS Faculty Articles & Chapters, available at: https://digitalcommons.nyls.edu/cgi/viewcontent.cgi?article=1566&context=fac_articles_chapters (last visited 25 April 2025).

National Judicial Data Grid, NJDG Statistics Portal, available at: https://njdg.ecourts.gov.in/njdg_v3/ (last visited 25 April 2025).

VIA Mediation Centre, "Analysing the Status of a Conciliation Award in Light of the Case of Haresh Dayaram Thakur vs State of Maharashtra and Ors", VIA Mediation Centre, available at: <https://viamediationcentre.org/readnews/MTcz> (last visited 25 April 2025).

In Depth: Reduction in Pendency of Cases – Arbitration, Drishti IAS, available at: <https://www.drishtias.com/loksabha-rajyasabha-discussions/in-depth-reduction-in-pendency-of-cases-arbitration> (last visited 25 April 2025).

S.S. Sharma, Lok Adalat in India, available at: <https://books.google.co.in/books?hl=en&lr=&id=ChRWJjouEesC> (last visited 25 April 2025).

SSRN, "Pre-litigation Mediation and India's Mediation Act, 2023", available at: https://download.ssrn.com/24/05/06/ssrn_id4818523_code5828309.pdf (last visited 25 April 2025).