Alternative Dispute Resolution Mechanisms in India: Evolving Practices, Challenges, and Prospects

Adv. Shivani Yadav LLM, School of Law, Guru Gobind Singh Indraprastha University, New Delhi, India

Email: advshivaniy@gmail.com

Abstract **- India's justice system has long struggled with the twin challenges of delay and inaccessibility. Court dockets remain heavy, and for many citizens, the idea of "speedy justice" still feels aspirational. Over the past few decades, alternative dispute resolution (ADR) mechanisms—arbitration, mediation, conciliation, Lok Adalats, and more recently, online dispute resolution (ODR)—have emerged as ways to ease this burden. This paper offers a balanced discussion of how these mechanisms function within India's legal framework, how courts have responded, and what their future may look like. Rather than treating ADR as a perfect substitute for litigation, the discussion recognises its uneven practice and the socio-legal realities that shape outcomes. The study draws on legislation such as the Arbitration and Conciliation Act, 1996 and the Legal Services Authorities Act, 1987, as well as major decisions like BALCO (2012), Afcons (2010), and Ssangyong (2019). It also reflects on recent initiatives—such as the government's ODR portal for MSMEs and new judicial interpretations of digital arbitration agreements—that show both progress and hesitation in India's ADR journey. The paper argues that ADR is not a panacea but a necessary complement to the formal system. Strengthening institutional standards, improving awareness, and ensuring equitable access will be key to making ADR a dependable pillar of justice in India.**

Index terms— **Alternative Dispute Resolution, Arbitration, Mediation, Conciliation, Lok Adalat, ODR, India, Access to Justice**

I. Introduction

Anyone who has spent time inside an Indian courtroom will recognise the quiet rhythm of adjournments—hearings postponed, files stacked high, litigants waiting. As of 2025, millions of cases remain pending across different levels of the judiciary. The reasons vary: limited judicial capacity, procedural complexity, and, at times, a cultural comfort with litigation itself. Yet amid this congestion, ADR appears as a pragmatic way of doing justice without losing sight of fairness. Historically, India was never a stranger to negotiated settlements. Community panchayats and elders acted as mediators long before British colonial courts introduced formal procedure. What has changed is the scale and the legal recognition of such practices. The Arbitration and Conciliation Act, 1996, modelled partly on the UNCITRAL Model Law, marked a deliberate attempt to modernise dispute resolution. Later amendments in 2015, 2019, and 2021 tightened timelines and encouraged institutional arbitration—steps that, on paper, promised faster results. Yet practice tells a more mixed story. Arbitration may still drag when parties use it strategically or when courts step in at interim stages. Mediation, though increasingly encouraged under Section 89 CPC, remains uneven: some mediators are well-trained; others are volunteers with little support. Lok Adalats, celebrated for mass disposal of cases, Page sometimes focus on numbers rather than genuine consensus. These contradictions do not invalidate ADR; they merely remind us that reform is a process, not an event. From my own observations interacting with lawyers and mediators, ADR works best when both parties feel heard rather than hurried. The promise of flexibility can quickly erode if one side perceives pressure to settle. Thus, ADR's success in India seems to depend as much on mindset as on machinery.

II. Legal foundations and institutional landscape of ADR in India

The legal framework for ADR in India has evolved gradually, often responding to both internal demands and global influences. At its core lies the Arbitration and Conciliation Act of 1996, which consolidated earlier laws and aligned them with the UNCITRAL Model Law. In practice, the Act's story has been less straightforward. Its early years were marked by uncertainty—Indian courts frequently intervened in arbitration matters, sometimes to the frustration of foreign investors. The landmark Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc. (2012) decision limited judicial interference in foreign-seated arbitrations and strengthened the principle of party autonomy. Subsequent amendments in 2015, 2019, and 2021 introduced timelines for awards and created the Arbitration Council of India (ACI) to regulate institutions and grade arbitrators. Yet implementation appears uneven; many arbitrators still operate ad hoc. Practitioners often remark that "India has a good law, but weak habits." Parallel to arbitration, mediation and conciliation have grown through both statutory and judicial encouragement. Section 89 CPC and the Supreme Court's Afcons (2010) decision promoted referral to settlement. The upcoming Mediation Act may further codify the process, though practitioners fear over-formalisation could weaken its informality. At the grassroots, Lok Adalats—established under the Legal Services Authorities Act 1987—remain the most visible face of ADR, resolving millions of disputes each year. Still, critics note that efficiency occasionally outweighs genuine consent. In recent years, technology has begun reshaping this landscape. ODR platforms such as SAMA and

Presolv360 offer digital mediation and arbitration. In 2025, the government launched an ODR portal for MSMEs, allowing small businesses to resolve disputes online. While promising, issues of access and digital literacy still linger.

III. How ADR mechanisms function:

Processes, advantages, and realities

A. Arbitration

Arbitration remains the preferred option for commercial matters. Parties choose their own decision-maker and process. Yet hearings can still resemble miniature trials, complete with thick bundles and multiple adjournments.

A 2025 Delhi High Court ruling, Belvedere Resources DMCC v. OCL Iron & Steel Ltd., confirmed that arbitration agreements formed via email or WhatsApp are valid—an adaptation to digital communication that invites both opportunity and caution.

B. Mediation

Mediation proceeds more softly; it seeks understanding rather than victory. Under Section 89 CPC and the Afcons decision, mediation now forms part of court practice. Still, success depends on mediator skill and party goodwill. The upcoming Mediation Act may formalise standards, though some fear it might reduce flexibility.

C. Conciliation

Conciliation blends mediation's informality with arbitration's authority. Settlements signed under Part III of the 1996 Act carry the same weight as arbitral awards. Though underused, it can be effective for labour and consumer disputes.

D. Lok Adalats

Operating since 1987, the Lok Adalat system provides a people-friendly mechanism for quick settlement. NALSA's 2024 report cites millions of cases resolved, though critics argue that speed sometimes eclipses true voluntariness.

E. Online Dispute Resolution (ODR)

The pandemic accelerated ODR adoption. Platforms like Presolv360 and SAMA now host virtual hearings daily. The 2025 MSME ODR Portal exemplifies government support for digital justice, though concerns remain about inclusion and data privacy.

IV. Judicial developments and policy trends shaping ADR in India

If laws provide the skeleton for ADR in India, then the judiciary gives it life. Over the years, Indian courts have played an active role in shaping the scope of arbitration and mediation. Their approach has oscillated between enthusiasm and restraint, but the general direction has been toward endorsement. Early judicial support emerged in Salem Advocate Bar Association v. Union of India (2005), where the Supreme Court upheld Section 89 CPC and encouraged judges to refer cases to ADR. Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010) later clarified which matters were suitable for mediation. Arbitration gained real momentum with Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc. (2012), which restricted judicial interference in foreign-seated arbitrations. Later, Ssangyong Engineering & Construction Co. v. NHAI (2019) reaffirmed that courts could set aside awards only on narrow grounds. Together, these rulings strengthened confidence in the arbitral process. Yet predictability has its limits. Courts occasionally face tension between enforcing arbitral autonomy and safeguarding public interest. A 2025 Delhi High Court case declined an asset-freeze request in a state-enterprise arbitration, reasoning that stricter scrutiny applies where public funds are involved. This cautious pragmatism typifies India's maturing ADR jurisprudence. Mediation, meanwhile, has been steadily institutionalised. High Courts now maintain court-annexed mediation centres, and judges routinely advise parties to "try mediation first." Data from a 2025 Delhi High Court initiative show about 28 000 referrals in three months, with roughly 4,300 settlements—modest but significant progress. Page On the policy front, the Arbitration Council of India (ACI) was set up to grade arbitral institutions, and NITI Aayog's ODR policy plan envisions nationwide digital dispute resolution. Yet contradictions remain: even as the government promotes ADR, departments such as Delhi's PWD have removed arbitration clauses from new contracts, citing delays. This ambivalence illustrates India's complex transition toward routine ADR use.

V. Challenges, critiques, and everyday realities

Despite steady reform, practical hurdles persist. Awareness of ADR outside metropolitan areas remains limited; many litigants equate justice exclusively with courtrooms. Quality and consistency vary widely. Unlike judges, most arbitrators and mediators follow no uniform certification path. The ACI was meant to ensure standards, yet its impact is still modest. Cultural attitudes add friction—settlement is sometimes viewed as surrender rather than wisdom. Enforcement delays undermine confidence. Section 34 petitions to set aside awards often morph into miniature appeals, blunting finality. Though Ssangyong narrowed review grounds, lower courts occasionally revert to expansive readings. Economic constraints also matter. Arbitration costs can deter small businesses; mediation centres rely heavily on volunteer mediators, raising sustainability issues. The MSME ODR Portal (2025) shows promise, but presumes digital access that many still lack. Finally, government contradictions remain striking. The state champions ADR in policy yet continues to be the country's largest litigant, frequently challenging awards it loses. Genuine reform will require bureaucratic culture to embrace resolution over resistance.

VI. Policy recommendations and the road ahead

1. Build capacity and professionalism:

Develop structured training and accreditation for mediators and arbitrators through bar councils and universities.

2. Ensure government accountability:

Ministries and PSUs should include clear ADR clauses and honour outcomes rather than defaulting to litigation.

3. Use technology responsibly:

Expand ODR access via common-service centres and provide technical assistance in rural districts.

4. Harmonise legislation:

Coordinate the Arbitration and Conciliation Act, Legal Services Authorities Act, and forthcoming Mediation Act under a national ADR mission.

5. Reframe public perception:

Promote awareness through success stories that portray ADR as a dignified Page resolution, not a compromise.

VII. Conclusion

ADR in India mirrors the country's larger legal evolution—ambitious, adaptive, and uneven. The framework spanning arbitration, mediation, conciliation, Lok Adalats, and ODR has matured through statute and jurisprudence, yet its practice still depends on human trust and institutional strength. Recent initiatives—from recognition of digital arbitration agreements to the MSME ODR Portal—signal meaningful progress. Still, inclusivity and enforcement remain unfinished work. ADR should not replace courts; it should complement them by widening the definition of justice to include dialogue, cooperation, and speed. For India, ADR is more than an efficiency tool—it is an ethical experiment in how a diverse society can manage disagreement without hostility. AUTHOR'S NOTE The views expressed are personal and intended solely for academic and research purposes. The analysis reflects the evolving state of ADR in India as of 2025.

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