

# The Development and Progression of Alternative Dispute Resolution (Adr) in India

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## **ABSTRACT:**

The journey of Alternative Dispute Resolution (ADR) in India can be traced back to ancient times when indigenous and community-based dispute resolution mechanisms thrived. These informal systems were characterized by mediation, arbitration, and consensus-building, reflecting the rich cultural diversity of the nation. However, as India evolved politically and socially, formal legal systems, such as litigation, took precedence. The resurgence of ADR in India can be attributed to several factors. The overcrowded judicial system, the exorbitant costs associated with litigation, and the need for expeditious resolution of disputes played a pivotal role in reviving interest in ADR methods. The Arbitration and Conciliation Act of 1996 served as a landmark legislative development, aligning Indian arbitration practices with international standards and promoting institutional arbitration. The Evolution of Alternative Dispute Resolution (ADR) in India represents a significant transformation in the country's legal landscape. This paper provides a concise overview of the historical development and key milestones in the adoption of ADR methods in India and provides a glimpse into the multifaceted journey of ADR in India, highlighting its historical roots, legislative milestones, judicial support, and its expanding role in modern dispute resolution. The evolution of ADR in India reflects a nation's commitment to fostering efficient, cost-effective, and accessible alternatives to traditional litigation.

**Keywords:** Dispute Resolution, Indian Judicial System, Litigation and Justice.

## **INDRODUCTION:**

Human beings inherent drive for survival has historically led to competition over limited natural resources. This competition often resulted in disputes and conflicts, which were initially resolved through combat or warfare, an instinctual response that continues to this day. However, as societies evolved, humans developed alternative methods for resolving disputes. Initially, justice was dispensed by a ruling monarch or tribal chief in the case of tribes. In modern times, the most prevalent method for dispute resolution is litigation. Litigation involves two parties presenting their arguments about their rights and claims before an impartial judge, with the assistance of their respective legal representatives. The judge carefully considers both sides and then issues a judgment that determines the rights and responsibilities of the involved parties. This approach is undoubtedly superior to older methods such as monarchs or queens rendering arbitrary judgments, which could be influenced by their personal preferences, or resorting to war, which often resulted in extensive damage to both parties on a massive scale.

Litigation has emerged as a result of another innate human instinct, which is evolution itself. The shortcomings of earlier systems like warfare and arbitrary judgments prompted the development of litigation. However, it's important to note that litigation also has its own limitations. Consequently, humans

have sought a more efficient and effective method of resolving disputes, leading to the evolution of the Alternative Dispute Resolution (ADR) system.

ADR serves as an alternative to litigation and encompasses various dispute resolution methods like mediation, arbitration, conciliation, negotiation, judicial settlement, and other non-court processes, all governed by specific rules. The outcomes or settlements reached through ADR are legally enforceable. Over time, ADR has gained popularity, especially in commercial disputes. These methods afford parties the freedom to select the legal framework or rules that will govern their proceedings. In most ADR proceedings, a mutually agreed-upon third party acts as an adjudicator or mediator, offering parties a sense of empowerment and control over the process. This empowerment is highly valued as people often seek certainty in their lives.

The concept of resolving disputes outside of the traditional court system is not a recent development; various societies around the world have historically employed non-judicial, culturally rooted methods to settle conflicts. What is new, however, is the widespread promotion and adoption of Alternative Dispute Resolution (ADR) models, the increased integration of ADR within the court system, and the growing utilization of ADR to achieve objectives that extend beyond resolving specific disputes. In the context of India, the use of the Alternative Dispute Resolution system is not a recent phenomenon either. It has been in practice in the country since time immemorial. Historical records show that throughout history, people have been experimenting with different procedures aimed at making the process of obtaining justice more accessible, cost-effective, reliable, and convenient [1]. The procedures for delivering justice reflect the societal awareness and values of the population. In any society, the legal system serves as a benchmark for gauging the community's progress and development.

The ancient system of dispute resolution made a significant impact in resolving various types of conflicts, including those within families, social groups, and minor disputes related to trade and property matters. At the forefront of this system were village-level institutions where disputes were settled through the mediation of respected elders, who formed the Village Council [2]. This informal mediation process was prevalent in earlier times, and very few disputes actually made their way to formal courts. The decisions made by these councils of elderly individuals were held in high regard and garnered respect from all members of the community. However, over time, both positive and negative aspects emerged. While this system was effective, it also faced challenges due to the interference of political and communal elements, which eventually led to a decline in its effectiveness.

## **DIFFERENT APPROACHES TO ALTERNATIVE DISPUTE RESOLUTION (ADR)**

### ***Arbitration:***

The commencement of the arbitration process is contingent upon the existence of a valid Arbitration Agreement, which must be in written form as stipulated in Section 7.[2]. The contract at the heart of the dispute should either contain an arbitration clause or refer to a separate document, signed by the involved parties, that holds the arbitration agreement. Written correspondence, such as letters, telexes, or telegrams, which document the agreement, can also be used as evidence of the arbitration agreement's existence. A legitimate written arbitration agreement is sometimes defined as an exchange of statements where one party asserts the presence of an arbitration agreement, and the other party does not dispute it. Any party to a contract featuring an arbitration clause can initiate arbitration proceedings either directly or through an authorized representative, who will initiate arbitration in accordance with the terms specified in the

arbitration clause. In this context, an arbitration clause outlines the procedures, language, the number of arbitrators, and the location for arbitration in the event of a dispute between the parties.

Section 8 of the Arbitration and Conciliation Act of 1996 establishes that if one party disregards the arbitration agreement and files a civil lawsuit instead of engaging in arbitration, the other party has the right to request the court to refer the matter to an arbitration tribunal in accordance with the agreement. This request must be made no later than the submission of the initial statement. The application should include an authenticated copy of the arbitration agreement, and if the court is satisfied, the case will be directed towards arbitration.

### ***Mediation:***

Mediation, often referred to as "appropriate dispute resolution," falls under the category of alternative dispute resolution (ADR) methods aimed at facilitating agreements between two or more parties in conflict. Rather than having a decision imposed by a third party, the involved parties themselves determine the terms of any settlements reached. These conflicts may involve states, organizations, communities, individuals, or other stakeholders with a vested interest in the outcome [3].

Mediators employ effective strategies and skills to assist disputing parties in initiating or improving their dialogue, ultimately aiming to help them come to a meaningful agreement on the contested issue. In most cases, all parties must view the mediator as an impartial and neutral party. Mediation is applicable in a wide range of contexts, including economic, legal, diplomatic, workplace, community, and family disputes. For instance, contracts and negotiations between entities like labor unions and corporations often involve a third-party mediator. In cases like labor strikes, disputes arise, prompting the appointment of a neutral third party to mediate discussions in an effort to reach an agreement between the union and the company.

### ***Conciliation:***

Conciliation, akin to arbitration, is a less formal process used to reach a mutually agreeable resolution between parties. In conciliation, disputing parties engage the services of a conciliator who conducts separate meetings with each party to help them resolve their differences. These individual meetings with the conciliator serve to alleviate tension between the parties, facilitate better communication, and clarify issues, all with the aim of reaching a negotiated settlement. Unlike arbitration, there is no prerequisite for prior consent, and conciliation cannot be imposed on a party that is unwilling to reconcile. In this regard, it distinguishes itself from arbitration [4].

### ***Negotiation:***

Negotiation is a dialogue with the aim of resolving disputes, achieving agreement on a course of action, trading for individual or collective benefit, or creating solutions that address various interests. It represents the most prevalent method of resolving spontaneous conflicts. Negotiation finds application in diverse settings such as business, non-profit organizations, government entities, legal processes, international relations, and personal situations including marriage, divorce, parenthood, and daily life. The academic study of this subject is referred to as negotiation theory. Negotiators are individuals who engage professionally in the field of negotiation. These professionals may have specific areas of expertise, such as union negotiators, leverage buyout negotiators, peace negotiators, or hostage negotiators. Alternatively, they may operate under different titles like diplomats, lawmakers, or brokers.

**Lok-Adalat:**

The Lok Adalat, often referred to as the 'People's Court,' is overseen by a chairperson who can be a currently serving or retired judicial officer, a social activist, or a legal professional. To exercise this jurisdiction, the National Legal Service Authority (NALSA) and other Legal Services Institutions organize Lok Adalats at regular intervals. Any case that is currently awaiting resolution in a regular court or any dispute that hasn't been presented in a court of law can be redirected to the Lok Adalat [5]. Importantly, this process is cost-free, and it follows a well-defined procedure, ensuring an expedited resolution. Moreover, if a case already in the court system is referred to the Lok Adalat and subsequently resolved, the court fees initially paid when filing the case in court are reimbursed to the parties involved.

**LAWS RELATED TO ADR IN INDIA**

- Civil Procedure Code 1908
- India Arbitration Act, 1899
- The Arbitration (protocol and convention) act 1937
- The Arbitration Act of 1940
- Arbitration and Conciliation Act, 1996

**THE BRITISH ERA AND THE ADR**

The British East India Company established its initial trading center in Surat, Gujarat, in 1612, with the permission of Mughal Emperor Jehangir. Their first significant involvement in Indian politics occurred when they supported Mir Kasim, a Bengal minister, militarily to undermine Nawab Siraj-ud-Daula's rule. The turning point came on June 23, 1757, when Nawab Siraj-ud-Daula was defeated in the Battle of Plassey by a joint force comprising Robert Clive's troops and those of Mir Kasim. This marked the formal entry of the British into Indian politics and their direct involvement in administrative matters. They gradually exerted control over many princely states in India, either through forceful annexation or by providing military support. In 1849, they extended their dominion over Punjab, including the North West Frontier Province (now part of Pakistan). In cases where there was no legitimate heir to the throne, princely states were brought under British rule. Sattara (1848), Udaypur (1852), Jhansi (1853), Tanjore (1853), Nagpur (1854), and Oudh (1856) were some of the princely states annexed by the British using the pretext of a lack of a legitimate heir. After defeating Tipu Sultan in 1792, they also annexed Malabar [4].

The British period witnessed changes in judicial administration, and the current Indian judicial system closely resembles that of the British era. Traditional institutions continued to function alongside the formal British legal system, with both systems operating in parallel. Alternate dispute resolution (ADR) was considered not only a convenient procedure but also a politically safe and significant one during the British Raj [5]. However, as the British Raj took hold, these traditional dispute resolution institutions gradually declined, and the formal legal system introduced by the British gained prominence. ADR, in its modern form, gained traction in India with the arrival of the East India Company [6]. The foundation of modern arbitration law in India can be traced back to the Bengal Regulations. Regulations like the Bengal Resolution Act of 1772 and Bengal Regulation Act of 1781 encouraged arbitration by allowing parties to submit disputes to arbitrators, whose decisions were binding. Over time, various regulations and legislation brought significant changes, culminating in Act VIII of 1857, which codified the procedure of civil courts and included provisions related to arbitration. Sections 326 and 327 allowed for arbitration without court intervention [7].

The Indian Arbitration Act of 1899 was subsequently passed, based on the English Arbitration Act of 1889. It was the first substantive law on arbitration but applied only to the Presidency towns of Calcutta, Bombay, and Madras. However, this act had shortcomings and faced criticism in the judiciary. In 1908, the Code of Civil Procedure (CPC) was re-enacted, but it made no substantial changes in the law of arbitration.

The Arbitration Act of 1940 replaced the Indian Arbitration Act of 1899, as well as section 89 and clauses (a) to (f) of section 104(1) and the Second Schedule of the Code of Civil Procedure, 1908. This act amended and consolidated the law relating to arbitration in British India and remained comprehensive legislation on arbitration even in the post-independence era until 1996.

### **THE POST INDEPENDENCE INDIA AND THE ADR**

Traditionally, community bodies like the panchayat, comprised of respected elders and influential individuals within a village, have played a role in resolving disputes among villagers, a practice that continues today. These panchayats have even addressed caste-related conflicts in recent times. In 1982, the concept of settling disputes outside of formal courts was initiated through Lok Adalats. The inaugural Lok Adalat took place on March 14, 1982, in Junagarh, Gujarat, and has since expanded nationwide. Initially, Lok Adalats operated as voluntary and conciliatory bodies without statutory authority for their decisions. However, the Legal Services Authorities Act of 1987, effective from November 9, 1995, granted Lok Adalats statutory status. To align with global commerce trends, the older Arbitration Act of 1940 was replaced by the new Arbitration and Conciliation Act of 1996. The settlement of family matters was addressed through an amendment in 1976, introducing Order XXXIIA of the Code of Civil Procedure, 1908 [8]. Provisions for reconciliation efforts were also incorporated into Sections 23 (2) and 23 (3) of the Hindu Marriage Act, 1955, as well as Section 34 (3) of the Special Marriage Act, 1954.

In 1984, the Family Courts Act was enacted, mandating family courts to actively seek settlements between parties. The introduction of Section 89 and Order X Rule 1A, 1B, and 1C through an amendment in the Code of Civil Procedure, 1908, [8], represented a significant legislative step in promoting "Court Referred Alternative Dispute Resolution" in India.

### **DEVELOPMENT OF ADR IN INDIAN JUDICIARY: AN ANALYSIS**

The Law Commission of India has consistently pointed out that the cause of judicial delays is not a lack of clear procedural laws, but rather the flawed implementation or even outright disregard of these procedures [9]. The 14th Report of the Law Commission of India emphasized that delays in the judicial system do not arise due to deficiencies in legislative procedures but rather result from the failure to adhere to many critical provisions, especially those intended to expedite proceedings. Given the vast number of pending cases, [10] managing and administratively overseeing judicial institutions through manual processes has become exceptionally challenging. The Supreme Court has stressed the need to address this issue, emphasizing that an independent and efficient judicial system is a fundamental element of the Constitution. It is the constitutional duty to reduce case backlogs and enhance case disposal rates [11].

Analyzing reports from the Law Commission of India sheds light on the factors contributing to delays and the substantial backlog of cases in the courts. Key factors include frequent adjournments requested by clients and lawyers, [12] lawyers boycotting court proceedings, a shortage of presiding officers in tribunals and courts, [13] non-compliance with basic case management and disposal procedures, and government-related delays, including evading notices, responding without careful consideration, and



pursuing unnecessary appeals even when the law is in favor of the opposing party [14]. Issues related to the mismanagement of court diaries, lax enforcement of provisions in the Code of Civil Procedure (such as those in Order 10 and Order 17), and insufficient utilization of electronic connectivity and information technology also contribute to delays [15]. Despite efforts to streamline procedures through the Code of Civil Procedure (Amendment Act) 2002, the time taken for the final resolution of cases in court remains lengthy due to prolonged witness examination, extended arguments, and inadequate use of technology. The problem of judicial delays and case backlog is a growing concern at every level of the judicial system and poses a significant threat to the overall legal process.

As a result, the time taken in the final disposal of the cases by the Courts still runs into years by unduly lengthy and winded examination and cross examination of witnesses,[16] protracted arguments,[17] inadequate electronic connectivity and use of information technology and so forth. The problem judicial delay and judicial arrears are spreading like epidemic at every level of the judicial system and thus it is a major cause of concern for the very survival of the entire process of litigation.

ADR was at one point of time considered to be a voluntary act on the part of the parties which has obtained statutory recognition in terms of Code of Civil Procedure (Amendment) Act 1999, Arbitration and Conciliation Act 1996, Legal Services Authorities Act, 1997 and Legal Services Authorities (Amendment) Act, 2002. The Parliament apart from litigants and the general public as also the statutory authorities Like Legal Services Authority have now thrown the ball into the court of the judiciary. Section 80(1) of Code of Civil Procedure lays down that no suit shall be instituted against government or public officer unless a notice has been delivered at the government office stating the cause of action, name, etc. The object of Section 80 of Code of Civil Procedure - the whole object of serving notice u/s 80 is to give the government sufficient warning of the case which is of going to be instituted against it and that the government, if it so wished can settle the claim without litigation or afford restitution without recourse to a court of laws.[23] The object of section 80 is to give the government the opportunity to consider its or his legal position and if that course is justified to make amends or settle the claim out of court.[24] Order 23 Rule 3 of Code of Civil Procedure is a provision for making a decree on any lawful agreement or compromise between the parties during the pendency of the suit by which claim is satisfied or adjusted.

The scheme of Rule 3 of Order 23 proves that if the court is satisfied that a suit has been adjusted wholly or partly by and lawful agreement or compromise, the court shall pass a decree in accordance to that. Order 23, Rule 3 gives mandate to the Court to record a lawful adjustment or compromise and pass a decree in term of such compromise or adjustment.

Order 27 Rule 5B confers a duty on court in suit against the government or a public officer to assist in arriving at a settlement. In a suit where Government or public officer is a party it shall be the duty of the Court to make an endeavour at first instance, where it is possible according to the nature of the case, to assist the parties in arriving at a settlement. If it appears to the court in any stage of the proceedings that there is a reasonable possibility of a settlement, the court may adjourn the proceeding to enable attempts to be made to effect settlement.

Order 32A of the Code of Civil Procedure addresses "suits related to family matters." Recognizing that conventional legal procedures may not be well-suited for the sensitive realm of personal relationships, especially given the significant emotional aspects involved, this order emphasizes the importance of adopting a unique approach to handling family-related issues. The primary objective of Order 32A is to prioritize family counseling as a means of preserving the family unit. It underscores the need for a distinct approach when dealing with matters related to the family, emphasizing the efforts to achieve amicable

settlements. These provisions within Order 32A apply to all legal proceedings concerning family matters, which encompass various aspects such as guardianship, custody of minors, maintenance, wills, succession, and more.

Rule 3 imposes a duty on the Court to make an effort of settlement by way of providing assistance where it is possible to do so. The Court may also adjourns the proceeding if it thinks fit to enable attempt to be made to effect a settlement where there is a reasonable possibility of settlement. In discharge of this duty Court may take assistance of welfare expert who is engaged in promoting the welfare of the family.[25]

The concept of employing alternative dispute resolution has undergone a sea change with the insertion of S.89 of Code of Civil Procedure by amendment in 2002. As regards the actual content, s.89 of Code of Civil Procedure lays down that where it appears to the court that there exists element of settlement, which may be acceptable to the parties, the Court shall formulate the terms of the settlement and give them to the parties for their comments.

Upon receiving responses from the parties involved in a dispute, the court has the authority to formulate potential settlements and refer the matter to various resolution methods. These methods include arbitration, conciliation, judicial settlement (including settlement through Lok Adalats), or mediation. Regarding disputes referred to arbitration and conciliation, the provisions of the Arbitration and Conciliation Act will be applicable, as specified in sub-section (2) of Section 89. When the court refers a dispute to Lok Adalats for settlement, the process is governed solely by the Legal Services Authorities Act, 1987. The Supreme Court has taken steps to ensure that public sector undertakings of the Central Government and their counterparts in the States do not engage in litigation in traditional courts, which can be costly in terms of legal fees, court fees, procedural expenses, and public time [26].

In *ONGC vs. Collector of Central Excise*,[27] there was a dispute between the public sector undertaking and Government of India involving principles to be examined at the highest governmental level. Court held it should not be brought before the Court wasting public money any time.

In the case of *ONGC vs. Collector of Central Excise* [28], which involved a dispute between a government department and a public sector undertaking (PSU), a report was submitted by the cabinet secretary as per the Supreme Court's directive. This report indicated that instructions had been issued to all government departments. The court's decision emphasized that public undertakings should make efforts to amicably resolve disputes through mutual consultation, government-appointed agencies, or arbitration, thereby avoiding litigation. The Government of India was directed to establish a committee comprising representatives from various departments. The committee's role was to oversee such disputes and ensure that no litigation was initiated in courts or tribunals without the committee's prior examination and approval. This directive was also to be communicated to every High Court for information and dissemination to all subordinate courts.

In *Chief Conservator of Forests vs. Collector* [29] it was said that State/ Union government must evolve a mechanism for resolving interdepartmental controversies- disputes between department of Government cannot be contested in court.

In *Punjab & Sind Bank vs. Allahabad Bank*,[30] it was held that the direction of the Supreme Court in *ONGC III*[31] to the government to setup committee to monitor disputes between government departments and public sector undertakings make it clear that the machinery contemplated is only to ensure that no litigation comes to court without the parties having had an opportunity of conciliation before an in-house committee.

In the case of Salem Bar Association vs. Union of India, the Supreme Court of India [32] has instructed the preparation of model rules for Alternative Dispute Resolution (ADR) and the drafting of mediation rules in accordance with section 89(2)(d) of the Code of Civil Procedure, 1908. These rules are collectively referred to as the "Alternative Dispute Resolution and Mediation Rules, 2003."

Rule 4 of these rules outlines that the court has a responsibility when parties choose any form of Alternative Dispute Resolution to provide them with guidance. This guidance involves highlighting the relevant factors that the parties need to consider before making their decision regarding the specific method of settlement they wish to pursue.

- it will be to the advantage of the parties, so far as time and expense are concerned, to opt for one of these modes of settlement rather than seek a trial on the disputes arising in the suit;
- where there is no relation between the parties which requires to be preserved, it will be in the interests of the parties to seek reference of the matter to arbitration as envisaged in clause (1) of sub-section (1) of sec.89;
- where there is a relationships between the parties which requires to be preserved, it will be in the interests of the parties to seek reference of the matter to conciliation or mediation, as envisaged in clauses (b) or (d) of sub-section (1) of section 89.

#### **EXPLANATION:**

The Rule also says that Disputes are arising in matrimonial, maintenance and child custody matters shall, among others, be treated as cases where a relationship between the parties has to be preserved. where parties are interested in a final settlement which may lead to a compromise, it will be in the interests of the parties to seek reference of the matter to judicial settlement including Lok Adalat as envisaged in clause (c) of sub-section(1) of section 89.

According to Rule 8, the provisions of these Rules may be applied to proceedings before the Courts, including Family courts constituted under the Family Courts (66 of 1984), while dealing with matrimonial, and child custody disputes.

The Supreme Court in Afcons Infrastructure and Ors. vs. Cherman Verkey Construction and Ors.,[33] changed the course of arbitration proceedings in India in addition to Salem Advocate Bar Association case. The scope and interpretation of Section 89 of CPC, 1908, suitability and unsuitability of arbitration for various disputes, consent of parties to the suit for arbitration, mandatoriness or voluntariness of ADR process and many other co-related issues were largely settled by the apex court burying the hatchet once and for all. The Afcons case thus put an end to most of the debatable issues that were a bone of contention in ADR mechanism. There is need for greater use of Alternative Dispute Resolution. It is required when there is need for:

- Going into lesser depth of procedures, or more informal and less technical procedures, or special procedures;
- The decision-maker or facilitator to be familiar with their otherwise conversant with the subject. In many technical matters, it eliminates the need to give evidence or even 'educate' the decision-maker thereby enabling lesser costs, and greater speed and accuracy; and
- Adopting and encouraging 'give and take' by each.

This situation arises frequently, especially when one party's reasoning or moral justification is likely to persuade the other party to be more willing to compromise. It's important to note that parties shouldn't be directed to alternative dispute resolution solely because the courts are unable to resolve cases promptly.



The underlying principle and the necessity of alternative dispute resolution must be understood in the right context. To emphasize this point further, pushing for alternative dispute resolution systems without first addressing the issue of court delays is essentially forcing people into alternative dispute resolution out of desperation. It creates a sense that the court process takes so long, and the associated costs are so high that it feels like a denial of justice. Therefore, people may feel compelled to accept whatever limited benefits alternative dispute resolution offers because they see no other viable option.

While alternative dispute resolution systems are indeed crucial and require significant attention and improvement, it's vital to focus on enhancing the efficiency of the courts first. After that, alternative dispute resolution should be encouraged but should be reserved for cases where it is more suitable or appropriate compared to the efficient and proper court procedures. It should not be seen as merely an escape route due to the courts' inability to deliver timely justice.

## CONCLUSION

The advancement of human civilization has brought significant progress in the realm of dispute resolution methods. The development of Alternative Dispute Resolution (ADR) mechanisms has been primarily motivated by the goal of efficiently resolving issues without excessive time and cost. The evolution of ADR methods presents a complex landscape, and it is evident that both legislative and judicial bodies have faced challenges in harmonizing these mechanisms and establishing rules governing them. The history of ADR mechanisms began with the introduction of arbitration laws, which underwent significant changes over time. As time passed, various other ADR mechanisms emerged and were incorporated into Indian legislation. The government also ensured that these methods were tailored for specific industries, as seen in acts like the Commercial Courts Act of 2015 and the Micro, Small and Medium Enterprises Development Act of 2006. There has been some discontent within the legal community regarding amendments to Section 89, but these concerns have been addressed through the recommendations of the Justice (Retd.) M. Jagannadha Rao Committee Report. In the contemporary era, the Indian government is taking further steps to advance ADR mechanisms, aiming to position India as a global hub for arbitration and other dispute resolution methods.

## REFERENCES

1. (2003) 3 SCC 472.
2. (2004) 6 SCC 437.
3. (2005) 6 SCC 344
4. (2006) (3) SCALE 557.
5. 120th Law Commission Report (1987).
6. 1992 Supp.2 SCC 432.
7. 1995 Supp.4 SCC 541.
8. 2010 (8) SCC 24
9. 77th Law Commission Report (1978).
10. 79th Law Commission Report (1979) on delays and arrears.
11. Act 46 of 1999, section 20 (i) (w.e.f. 1-7-2002).
12. ADR and Access to Justice: Issues and Perspectives, By Hon'ble Justice S. B. Sinha, Judge Supreme Court of India.
13. AIR 1987 SC 674

14. AIR 2003 SC 2629.
15. Also known as the Tiger of Mysore, was the ruler of the Kingdom of Mysore and a pioneer of rocket artillery
16. An American Politician and Lawyer who served as the 16th President of the United States from March 1861 until his assassination in April 1865.
17. As per the economic times' report, there are 58.94 lakh cases pending in High Courts and more 4.10 crore cases pending in the district and subordinate courts across the country, as on 21st March, 2022. As per the website of Supreme Court of India there are 70,632 cases pending, as on 01st April 2022.
18. Brij Mohan Lal vs. Union of India & Ors., (2002) 4 Scale 433, decided on May 6th, 2002.
19. Chandra, Sarvesh. ADR: Is Conciliation the Best Choice, in Rao, P.C. and Sheffield, William. (1997) Alternative Dispute Resolution: What it is and How it Works, New Delhi : Universal Law Publishing Co., p. 85.
20. Ghanshyam Dass v. Domination of India, (1984) 3 SCC 46
21. <http://www.indiavideo.org/text/british-colonization-335.php>
22. <https://economictimes.indiatimes.com/news/india/over-4-70-crore-cases-pending-in-various-courts-govt/articleshow/90447554.cms>
23. K.A.Abdul Jalees v. T.A. Sahida (2003) 4 SCC 166.
24. Law Commission of India, 77th Report, pr.4.1.
25. Nripendra Nath Sircar, Law of Arbitration in British India (1942), p. 6 cited in 76'th Report of Law Commission of India, 1978, p. 6, para 1.14
26. O P Malhotra, Indu Malhotra, Lexis Nexis, The Law and Practice of Arbitration and Conciliation (2nd ed., 2006)
27. Popularly called as Panchayats.
28. Raghunath Das v. UOI AIR 1969 SC 674.
29. Rao, P.C. Alternatives to Litigation in India, in Rao, P.C. and Sheffield, William. (1997) Alternative Dispute Resolution: What it is and How it Works, New Delhi : Universal Law Publishing Co., p.27.
30. Reddy, K. Jayachandra. Alternate Dispute Resolution, in Rao, P.C. and Sheffield, William. (1997) Alternative Dispute Resolution: What it is and How it Works, New Delhi : Universal Law Publishing Co., p. 79.
31. Rule 4 of Order 32A of CPC, 1908.
32. Salem Advocate Bar Association, Tamil Nadu vs. Union of India, (2005) 6 SCC 344
33. Section 12A.
34. Section 23(3) of the 1966 Act
35. Section 32(g).
36. see Oil and Natural Gas Commission vs. Collector of Central Excise [1992 Supp.2 SCC 432], Oil and Natural Gas Commission vs. Collector of Central Excise [1995 Supp.4 SCC 541] and Chief Conservator of Forests vs. Collector, [(2003) 3 SCC 472].
37. Supakar, Dr. Shraddhakara. (1986). Law of Procedure and Justice in Ancient India. New Delhi : Deep & Deep Publication.
38. Tamil Nadu Vs. Union of India (UOI), (2005) 6 SCC 344, paras 38, 39.
39. The 14th and 77th Law Commission Reports.

## ***Web links***

1. <https://www.scconline.com/blog/post/2021/02/07/evolution-of-adr-mechanisms-in-india/>
2. <https://main.sci.gov.in/pdf/mediation/MT%20MANUAL%20OF%20INDIA.pdf>
3. <https://www.mondaq.com/india/arbitration-dispute-resolution/989064/critical-analysis-of-the-conciliation-proceedings-under-the-arbitration-and-conciliation-act-1996>.