ALTERNATIVE DISPUTE RESOLUTION (ADR) MECHANISM TO THE RESCUE: JUSTICE WITHOUT TRIAL

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Abstract

Alternative dispute resolution or "ADR" alludes to a wide scope of dispute resolution mechanisms or techniques that share one essential characteristic: They all vary from the dispute mechanism of litigation in a federal or state court. In the previous two decades, ADR has gotten a significant part of legitimate practice in the United States. Parties and their legal advisors progressively look for intends to resolve their disparities without resorting to litigation, and thus they increasingly turn to alternate mechanism to attempt to resolve disparities. As a result, mediation, arbitration and other alternative dispute resolution mechanism are commonly used today in such divergent fields as labor law, medical practice, construction law, securities regulation, commercial law, domestic relations and numerous different zones. The Supreme Court has found that in certain nations across the world 90% of the instances were settled out of the courts. In America less than 5% of the cases actually go to trial and 95% of the cases are resolved through ADR. In India, by virtue of Section 89 of the Code of Civil Procedure the focus is specifically on ADR modes.

As it is rightly held by means of Hon'ble Apex Court in its landmark judgement of Hussainara Khatoon Vs. State of Bihar 1980, that any procedure which do not longer provide for quick disposal of the problem in controversy abridges the fundamental right of the personal liberty and therefore, it is held by way of Hon'ble Apex Court that speedy trials is the fundamental right of everyone. It is pertinent to notice that as "Justice delayed is justice denied". So considering this fact, the legislature has turned legal machinery towards quick justice to eradicate the pendency by adopting the ADR mechanism.

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INTRODUCTION

As per the NJDG data, as on 6/6/2019, there are 31111546 Cases pending throughout the country. Out of which 8827748 Civil Cases and 22283798 Criminal Cases. 71.67% (6326458) cases and 72.91% (16248097) criminal cases are pending for more than one year.[3] The government has amended Section 89 of Civil procedure Code 1908 and mandated the courts to try out the possibilities of resolving the pending civil disputes through arbitration or mediation or Lok Adalat. Though this amendment has been passed by the parliament in the year 1999 still, it has been enforced in the year 2002.

Justice Warren Burger aptly remarks, "the notion that most people want black-robed judges, well dressed lawyers and fine paneled courtrooms as the setting to resolve their disputes is not accurate. People with problems is like people with pains, want relief and they want it as quickly and inexpensively as possible." Most of the states in the world have responded to this need of the people by setting up strong forum of ADR. However, the problem doesn't seem to be addressed satisfactorily in India, which nonetheless, primarily banks on the judicial settlement of disputes. This has paved way for congestion in courts, ultimately leading to the unwanted delay in the dispensation of justice. However at no point of time the inflow of cases can be stopped nor should it be, since the doors of justice can never be closed. Therefore, it requires some additional outlets like ADR.

The Indian justice system is infamous for its lack of ability to dispose cases in a timely manner.[4] As of December 8, 2017, there are over 2.6 crore cases pending in High Courts across the country.[5] In fact, at the current pace of functioning, the Delhi High Court alone would take 466

[3]National Judicial Data Grid (District and Taluka Courts of India)' (NJDG, 2019) <https://njdg.ecourts.gov.in/njdgnew/?p=main/index&state_code=24~17> accessed 20 August 2019.

[4]Mayur Suresh & Siddharth Narrain, The Shifting Scales of Justice: The Supreme Court in Neo-Liberal India, 17, 20 (2014); THE WORLD BANK, Ease of Doing Business in India, available at http://www.doingbusiness.org/data/exploreeconomies/india/#enforcing-contracts (Last visited on January 7, 2018).

[5]NATIONAL JUDICIAL DATA GRID, Summary Report of India, available at http://njdg.ecourts.gov.in/njdg_public/main.php# (Last visited on December 8, 2017).

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years to clear its backlog.[6] As of December, 2016, there exist seventy-five lakh civil suits pending, out of which more than forty lakh have been pendingfor over two years.[7]

The legal education in whole of India is focused more in terms of producing hardcore litigation lawyers rather than administrators of ADR mechanisms. Thus the ADR has taken the backseat with no proper training, and little or no time available to the administrators.

Since the lawyers are specialised in court based litigation, their knowledge of numerous ADR mechanisms itself is questionable. Even if they are aware of some ADR mechanisms, they lack requisite skills or needful abilities to either administer or assist in ADR mechanisms. Hence, when a client approaches a lawyer for consultation, the chances of proceeding towards ADR as a means of resolution of dispute is near zero. In the backdrop of above concerns, it is absolutely essential to revisit our ADR to develop strong litigant friendly system which should be a model to be followed in the rest of India.

History And Development of ADR in India

"*I realized that the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that a large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby- not even money, certainly not my soul.*"

Mahatma Gandhi[8]

To Quote, Victor Hugo: An Invasion of Armies can be resisted, but not an idea whose time has come. The time to settle disputes through ADR has quietly and irresistibly come. Alternate Dispute Resolution has become an indispensable need for today's world, Our Court's are already overburdened by arrears which appear to be insoluble in near future, Cases are increasing in courts in a super fast speed and the courts have proved to be helpless in rendering speedy justice in majority of the pending cases, so much so that: A resolution had been adopted by the Chief

[6]It would take Delhi HC 466 yrs to clear backlog: CJ, THE INDIAN EXPRESS, February 13, 2009, available at http://indianexpress.com/article/india/india-others/it-would-take-delhi-hc-466-yrs-to-clear-backlog-cj/ (Last visited on February 3, 2018).
[7]NATIONAL JUDICIAL DATA GRID, supra note 5.
[8]Gandhi and Mahadev H Desai, An Autobiography, [Or], The Story Of My Experiments With Truth (Prakash Books 2009).

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Minister and the Chief Justices of The High Court on 4th of December 1993,declaring that the courts were not in a position to bear the entire burden of the justice system and that a no. of disputes would be better settled, if resolved by alternative modes like; Arbitration, Mediation and Negotiation.

Alternate to dispute resolution need to have procedural flexibility in order to save time, money and avoid miseries and delays associated with conventional trial, under the scheme of ADR the litigants are in fact encouraged to resort to alternative dispute resolution, so that the actual court systems would be left with a smaller number of important disputes that demand judicial attention. Consequently ADR has received a grand welcome in each and every field in which it has ventured.

The closing years of the 20th century witnessed a world wide change, towards the growing trend of resolving problems of disputants; it was during this time that the popularity of ADR methods as a good substitute for conventional judicial convention gained popularity.

To Quote, Mr. Justice A.M. Ahmad,[9]while we encourage ADR Mechanisms ,we must create a culture for settlement of disputes through these mechanisms , unless members of bar encourage their clients to settle their disputes through negotiation, such mechanism cannot succeed.

REQUIRMENT OF ADR IN INDIA

The ineffectiveness of the justice system in India is a result of the fact that litigation in Indian courts has proven to be a time consuming, laborious, and expensive process.[10]Further, an acute lack of competent institutions capable of training adequate numbers of accomplished lawyers has resulted in a dearth of quality legal professionals.[11]

[9]Former Chief Justice of India.
[10]Marc Galanter & Jayanth K. Krishnan, Bread for the Poor: Access to Justice and the Rights of the Needy in India, 53 HASTINGS LAW JOURNAL 789
[11]THE INDIAN EXPRESS, supra note 6; The Bar Council of India, Reform of Legal Education in India: Note on Proposed Directions for Reform, available at http://www.barcouncilofindia.org/wp-content/uploads/2010/07/LegalEducationReformRecommendations.pdf (Last visited on January 25, 2018); Improving legal education in India, THE HINDU, September 29, 2016, available athttp://www.thehindu.com/todays-paper/tp-opinion/Improving-legal-education-in-India/article14783272.ece (Last visited on January 25, 2018); Bar and Bench, Clinical Legal Education: A Way towards Up-scaling Access to Justice in India, available at http://barandbench.com/clinical-legal-education-a-way-towards-up-scalingaccess-to-justice-in-india/ (Last visited on February 2, 2018).

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Furthermore, the adversarial nature of litigation, which is often regarded as the sole mode of dispute resolution, coupled with the alienating behaviour of the lawyers that focuses more on procedure has been identified as one of the several causes of disconnect among the masses.[12] Further, the prohibitively high costs for the procurement of civil justice and the complexity of the inner workings of the justice system, natural consequences of an adversarial mechanism,[13]discourage people from approaching the courts.

The High Court of Kerala in T. Vineed v. Manju S. Nair[14] held that making an attempt for alternative redressal of disputes is not only a statutory obligation of courts under Section 89 of the Code of Civil Procedure but also forms part of a duty that courts owe to the public.[15]Widespread adoption of ADR mechanisms would provide the aggrieved with multiple avenues to enforce their rights and would consequently improve access to justice in India.[16]Consequently, it would substantially lower the burden upon the subordinate and high courts. This need for the adoption of such techniques has been emphasised and reiterated by the Law Commission of India on numerous occasions.[17]

The core value and benefit of mediation is that it provides an opportunity for the parties to converse, negotiate, and arrive at an amicable compromise that is acceptable for all the concerned parties.[18] Adversarial litigation does not provide any scope for the litigants to compromise and enter a legally binding settlement even if the concerned parties are willing to do so. In contrast, all parties, consumers, companies, employers, employees, husband and wife – play an active role in solving the problem while reaching a compromise through

[12]LORD WOOLF, HER MAJESTY'S STATIONARY OFFICE, ACCESS TO JUSTICE: INTERIM REPORT TO THE LORD
CHANCELLOR ON THE CIVIL JUSTICE SYSTEM IN ENGLAND AND WALES (1995).
[13]Id.; HELEN STACY & MICHAEL LAVARCH, BEYOND THE ADVERSARIAL SYSTEM 75-84 (1999).
[14]T. Vineed v. Manju S. Nair, 2008(1) KLJ 525.
[15]Id.

[16]Law Commission of India, Delay and Arrears in Trial Courts, Report No. 77 (November 1978); Law Commission of India, Delay and Arrears in High Court and other Appellate Courts, Report No. 79 (May 1979); Law Commission of India, The High Court Arrears- A Fresh Look, Report No. 124 (1988).

[17]Id.
[18]FRANK ELKOURI, EDNA ASPER ELKOURI & ALAN MILES RUBEN, HOW ARBITRATION WORKS (18th ed., 1985);
JAY FOLBERG & ALISON TAYLOR,MEDIATION: A COMPREHENSIVE GUIDE TO RESOLVING CONFLICTS WITHOUT
LITIGATION 32-35 (1986); MARK D. BENNET & MICHELE G. HERMANN, THE ART OF MEDIATION 43-48 (1996).

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mediation.[19]There also exist several advantages for society related to the action of coming to an amicable solution.[20]

DIFFERENT MODES OF ADR

Arbitration is a process for settlement of disputes fairly and equitably through a person or persons or an institutional body without recourse to litigation by the disputing parties pursuant to an agreement.[21] It may be ad-hoc, contractual, institutional or statutory[22] . A neutral third person chosen by the parties to the dispute settles the disputes between the parties in arbitration. Though it resembles the court room based settlement, it involves less procedure and parties' choice of arbitrator. It exists with the established less cumbersome process and it is quite useful in resolving different kinds of disputes including international commercial disputes. At present, arbitration is the only legally binding and enforceable alternative to ordinary court proceedings.[23]

Conciliation is a private, informal process in which a neutral third person helps disputing parties to reach an agreement.[24] It is a process whereby the parties, together with the assistance of the neutral third person or persons, systematically isolate the issues involved in the dispute, develop options, consider alternatives and reach a consensual settlement that will accommodate their needs. Usually, the conciliator in this process would independently investigate into the dispute and draft his report indicating the method of settlement of disputes. Then it is left open to the parties themselves to come to a final settlement in line with the report of the conciliator, with or without any changes to be agreed by the parties. Hence, unlike arbitration, the conciliator's report would not be binding on the parties.

Mediation involves the amicable settlement of disputes between the parties with the help of a mediator. The task of the mediator is to bring the parties together to the process of amicable

[19]Costello, supra note 13.
[20]Costello, supra note 13.
[21] H. K. Saharay, Law of Arbitration and Conciliation, (Kolkata: Eastern Law House, 2001) p. 3; Phillip Capper, International Arbitration: A Handbook, Third edition, (London: Lovells, 2004) p. 2.
[22]Nomita Aggarwal, 'Alternative Dispute Resolution: Concept and Concerns', Nyaya Deep, Vol. VII, Issue 1, January 2006, pp. 68 - 81 at p. 73.

[23] G. K. Kwatra, Arbitration and Alternative Dispute Resolution: How to Settle International Business Disputes with Supplement on Indian Arbitration Law, (New Delhi: Lexis Nexis Butterworths, 2004) p. 2.
[24]Nomita Aggarwal, 'Alternative Dispute Resolution: Concept and Concerns', Nyaya Deep, Vol. VII, Issue 1, January 2006, pp. 68 - 81 at p. 73.

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settlement of their disputes. Mediator would influence the parties to cut down their demands with a view to reach a mutually acceptable solution. Hence, the mediator plays the role of a facilitator in attaining cooperation between the parties to the dispute. Mediation lays emphasis on the partiesown responsibilities for making decisions that affect their lives instead of a third party judging the fate of parties to the dispute. Thus, mediation can be termed as assisted negotiation,[25]wherein the mediator, by virtue of his influence, brings the parties to negotiating table and assists in the settlement of their disputes.[26]

Negotiation is a method wherein the parties themselves would settle their disputes. The negotiation processprovides the parties an opportunity to exchange ideas, identify the irritant points of differences, find a solution, and get commitment from each other to reach an agreement. Bargaining is a common feature of the negotiation process. Even if a third party negotiator is involved in the process of negotiation, his role would be limited to inducing the parties to the process of negotiation.Thus, it mainly involves communication for the purpose of persuasion.[27] Hence, mediators would have higher level of involvement in the settlement of disputes when compared to that of negotiators. It is significant to note here that mediation and negotiation provide better and satisfactory solution to certain kind of disputes such as family disputes, disputes with neighbours, matrimonial disputes and several petty disputes.

Lok Adalat is a unique system developed in India. It means people's court. It is a forum where voluntary effort at bringing about settlement of disputes between the parties is made through conciliatory and persuasive means. It encompasses negotiation, mediation and conciliation as tools to settle disputes between the parties.[28] Lok Adalats have been given the powers of civil court under the Code Civil Procedure. The summary procedure employed in Lok Adalats help in the seedy disposal of cases by the team of experts involved in Lok Adalats. One of the advantages of Lok Adalat is that a number of disputes between different parties can be settled at

[25]Stephen J. Ware, Alternative Dispute Resolution, (St. Paul: West Group, 2001) p. 6

[26] Abraham P. Ordover, G. Michael Flores and Andrea Doneff, Alternatives to Litigation: Mediation, Arbitration and the Art of Dispute Resolution, (Notre Dame: National Institute for Trial Advocacy, 1993) p. 6.

[27]Stephen Goldberg, Frank Sander and Nancy Rogers, Dispute Resolution: Negotiation, Mediation and Other Process, Second edition, (London: Little, Brown and Company, 1992) p. 17.

[28]See <http://nalsa.gov.in/lok-adalat>

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one go without wasting much time. Revolutionary changes are also happening in the administration of Lok Adalats with the introduction of mobile Lok Adalat systems to bring justice to the doorsteps of needy and poor.

SIGNIFICANCE OF ADR

The significance of ADR exists in the multi-facet advantages of it over the judicial settlement of disputes. They are summarized as:

(a) Speedy and Economic Disposal of Cases

ADR provides an economic, expeditious and informal remedy for disputes. This economic and speedy relief is very significant because the delay in the dispensation of justice might itself result in injustice to the litigants quite often. For example, in the cases of motor accident claims, the victims may require the compensation to be paid without delay in order to meet medical and other expenses. Any inordinate delay in such cases would defeat the very purpose of the compensation. In these matters, ADR mechanisms are of great help to the victims in obtaining speedy relief.[29] Inordinate delays, which are a part of the ordinary legal process, may also emotionally affect the parties and cause frustration, thereby eroding public trust and confidence in the legal institutions.[30] Realizing these factors, our Supreme Court in State of Jammu &Kashmir v. Dev DuttPandit[31] has observed that"Arbitration has to be looked upto with all earnestness so that the litigant has faith in the speedy process of resolving their disputes."

ADR mechanisms are also relatively inexpensive in comparison with the ordinary legal process.[32] When poverty is the striking problem faced by our country, ADR can really help the poorer sections of the society by being cost effective in nature.

(b) Less Technicalities

[29]Ever since Lok Adalats have been given statutory recognition in 1987, more than 8.25 crore cases have been settled. See <http://nalsa.gov.in/lok-adalat>

[30]Hiram Chodosh, Niranjan Bhatt and Firdosh Kassam, Mediation in India: A Toolkit, (New Delhi: United States Educational Foundation in India, 2004) p. 13.
[31]AIR 1999 SC 3196.

[32]<http//www.odr.info/THE%20CULTURE%20of %20 ADR%20IN%20INDIAdoc>

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ADR procedures are not afflicted with the rigorous rules of procedure.[33] In case of arbitration, however, the rules of arbitration institution, which are fixed, are sometimes applied. Otherwise, the parties may meet and fix the procedures for themselves with the help of a mediator. It is much easier with more informal procedures to avoid the confusion involved in the usually stringent procedures. This prevents the injustice being caused to an ordinary man due to his failure tounderstand and follow the complicated procedures.

(c) Confidentiality of Proceedings and Awards

ADR proceedings are conducted in private and the awards are kept confidential. In case of conciliation proceedings, Section 75 of the Arbitration and Conciliation Act 1996 specifically provides for the confidentiality of all matters relating to the proceedings. In arbitration agreements also, parties themselves, often provide for confidentiality of the proceedings and the award. The confidentiality in the ADR proceedings is very much helpful in the settlement of those disputes which the parties don't want to divulge to others.

Despite the manifold advantages discussed above, ADR is not to be understood as a system free from any loophole. There are possibilities of injustice to poor and oppressed class of the society due to the influence of external factors in ADR mechanisms. These external factors may range from political to economic.

ADR IN INDIA: DEVELOPMENT AND SCOPE

The concept of ADR is not novel to the Indian society. It has been rightly noted by commentators that ADR processes are not new, but have rather been rediscovered as informal justice mechanisms, which have long been the dominant method of dispute resolution in many societies, indigenous communities in particular. Study of legal literature enables us to know that settlement of disputes by arbitration or other mechanisms has been practiced in India from the distant past for resolving disputes concerning family, trade or asocial group.[34] The study of

[33]William W. Park, Arbitration of International Business Disputes: Studies in Law and Practice, (Oxford: Oxford University Press, 2006) p. 604.
[34]G.K. Kwatra, The Arbitration and Conciliation Law of India with Case Law on UNCITRAL Model Law on Arbitration, (New Delhi: The Indian Council of Arbitration, 2003) at foreword.

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ancient legal history unveils the role of private persons (arbitrators) in Panchayats, Puga ,[35] Sreni[36] and Kula.[37]

Among many systems followed in India, Panchayat system is the most significant one. Panchayat system is an early form of self-governance in India, which also performed the main function of dispute resolution. As the time passed on, the King started to appoint the village headman, and he started to receive advice from the headman regarding the administration. Gradually, a system of appeal was developed, wherein the parties were allowed to appealto the King against the decisions of Panchayats. Today Panchayat system has received the constitutional sanction to resolve disputes regarding specific subject matters.[38]

A BIRD'S EYE VIEW OF CURRENT SCENARIO

The congestion in courts, lack of adequate man-power and resources, rigidity of procedure and lack of participatory roles are still the problems faced by Indian judiciary. As a result, the justice dispensing system has come under great stress. ADR mechanisms with a politic framework have promised great potentiality to address the problems and stand as additional outlets in India. Undoubtedly, efforts are being made under the framework of Arbitration and Conciliation Act 1996 and Legal Services Authorities Act 1987 to popularize all forms of ADRs in India.

Unfortunately, despite the fact that the Indian legal system encourages dispute settlements through ADR mechanisms, our masses have not yet embraced it whole-heartedly. The foremost reason for ADR's unpopularity owes to government's and Bar's failure in reaching it to masses. The facts and figures show that success of ADR in USA is due to strong initiative taken by the

[35]Board of persons belonging to different sects and tribes but residing in the same locality.

[36]Assemblies of tradesmen and artisans belonging to different tribes but connected in some way with each other.

[37]Group of persons bound by family ties.

[38] Part IX containing Articles 243 to 243-O of the Constitution of India relates to Panchayat. In order to supplement the resources of Panchayat, Seventy Third Amendment Act 1992 has added sub-clause (bb) to Article 280 (3) of the Constitution. The Amendment has also added the eleventh schedule to the Constitution, which contains twenty nine subject matters over which Panchayats can exercise powers and authorities subject to the provisions of the Constitution and the state legislature.

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Bar.[39] In most of the developed countries, the Bar is divided into litigating lawyers and non-litigating lawyers.[40] The percentage of non-litigating lawyers in all the developed countries is significantly higher than the litigating lawyers.[41]However, we don't find many non-litigating lawyers in India. This may be attributed to the lack of proper understanding of ADR mechanisms by the lawyers, who are generally devoid of any training in administering the ADR techniques.[42] The lack of institutional framework in India has also stood as a major obstacle in the way of ADR.[43]

The failure of the government and the Bar can also be attributed to the fact that the Indian people are so strongly rooted in traditional court based resolution system that they are reluctant to accept any change. This is evident from the number of cases flooding the courts every year, despite the knowledge of cumbersome process of the court. Moreover, the approach of the Bench towards ADR is also variegated.[44] Often, the development of ADR in different states of India depended largely on the inclination of their respective High Court's Chief Justice towards ADR. This has led to uneven introduction of ADR mechanisms in different states.[45]

There is no strict qualification criterion for the appointment of the arbitrator, conciliator, mediators or negotiator. This factor has kept open the chances of passing unreasonable awards or bad mediation or negotiation, resulting in further enhancement ofconflicts. There are also instances of ADR mechanisms being very expensive, sometimes much more than the ordinary

[39]Dilip. B. Bhosale, 'An Assessment of A.D.R. in India, Nyaya Deep, Vol. VII, Issue 4, October 2005, pp. 57 - 72 at p. 68.

[40]The non-litigating lawyers deal with cases outside the court through ADR methods.

[41] Dilip. B. Bhosale, 'An Assessment of A.D.R. in India, Nyaya Deep, Vol. VII, Issue 4, October 2005, pp. 57 - 72 at p. 68.

[42] Y. K. Sabharwal, 'Alternative Dispute Resolution', Nyaya Deep, Vol. VI, Issue 1, January 2005, pp 48 - 57 at p 55.

[43]R.D. Rajan, A Primer on Alternative Dispute Resolution, (Tirunelveli: Barathi Law Publications, 2005) p. 593.

[44] Though the judiciary has highlighted the importance of ADR in certain cases, there are also instances of distaste of the judiciary towards the ADR mechanisms as an alternative to court system. See V. Nageswara Rao, 'ADR in India: In Retrospect and Prospect', ICFAI Journal of Alternative Dispute Resolution, Vol. IV, No. 1, January 2005, pp. 5 - 6 at p. 5. Also see generally Susan Randall, 'Judicial Attitudes Towards Arbitration and the Resurgence of Unconsionability', ICFAI Journal of Alternative Dispute Resolution, Vol. V, No. 2, April 2006, pp. 68 - 95.

[45] Prathamesh D. Popat, 'ADR in India - 2009', available at <http://www.mediate.com/acrcommerial/docs/ADRinIndia(1).pdf>

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court proceedings.[46]This factor compels the poor Indian masses from not resorting to ADR process. The speedy disposal of cases through ADR also requires sincere and dedicated persons administering it. But unfortunately in India we do not have a separate group of people who are skilled and devoted only forthe resolution of disputes through ADR. Given this fact, the people who administer ADR in India are the busy legal practitioners, having cases in courts almost every day. This negates the advantage of ADR's speedy proceedings by making it quite lengthy and time consuming.

CASE LAWSINDICATING INSTANCESWHERE JUDICIARY HAS RULED IN FAVOUR OF ALTERNATE DISPUTE RESOLUTION

In E.Venkatakrishna Vs Indian Oil Corporation Ltd[47]

It was held that, when ever there is an arbitration clause in a contract, aggrieved parties must have recourse to the provisions of the arbitration act and that being a complete code in itself, parties cannot approach High Court, with a petition under Art-226.

In Sitanna Vs Viranna, the Privy Council affirmed the decision of panchayat, and Sir John Wallis observed that the reference to a village panchayat is the time honored method of deciding disputes. It avoids protracted litigation and is based on the ground realities verified in person by the adjudicators and the award is fair and honest settlement of doubtful claims based on legal and moral grounds.[48]

In Oil and Natural Gas Commission vs. CCE[49]

In one of the orders passed in this judgment it was recorded that the cabinet secretary has issued instructions to all departments of Government of India as well as PSU's that all disputes "regardless of type, should be resolved amicably by mutual consultation or through good offices of empowered agencies of the government or through arbitration and recourse to litigation should be eliminated.

In Deco Mica Ltd Vs UOI[50]

[46]Madabhushi Sridhar, Alternative Dispute Resolution - Negotiation and Mediation, First edition, (New Delhi: Lexis Nexis Butterworths, 2006) p. 375.
[47]AIR 1989, Kant 1989(1)Arb35Lr270.
[48]AIR 1934 SC 105.
[49]1995 Supp(4)SCC 541.

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Here in it was held that ADR is inevitable in one form or the another form in view of global unquestionable phenomenon because court of law some times becomes suit for life, litigation in the present set up and mechanism has become expensive and time-consuming and dispensation of justice has become slow. It is reported that out of 192Countries, which are members of UN,133 Countries have successfully implemented ADR in one form or the other, with encouraging and rewarding success.

CONCLUSION

The Concept of resolution of disputes through modes other than those including time consuming technical methods however at first begun with an experimental basis, has in truth gained immense popularity.

The effectiveness of Arbitration, Conciliation, Lok-Adalats, Mediation, Negotiation as a means of giving speedier, quicker, less expensive, productive and some what agreeable settlement, in a private climate, without publicizing the issue has made the Alternate Dispute Resolution framework most loved among the two prosecutors as well as corporate, The fame and adequacy of this framework is very clear from the way that, presently even courts of law are genuinely reassuring this concept.

In this way it would not be right to sum up that "In true sense of the term substitute dispute resolution has risen as an actual saving pill for our ailing judicial system, ADR by dealing with straightforward cases has in fact spared to the regular courts, some additional time to deal with more specialized and complex judicial issues, and by doing so it has in truth been quite successful in accomplishing its ideal reason for diminishing the regular courts of their developing overabundance of cases.

With the strengthening of ADR mechanisms and consequential increase in its success rate, ADR would automatically become a talk of every household. However, to make everyone aware of the nuances of each of these ADR mechanisms, it is pertinent to have frequent ADR awareness campaigns in different places.

[50]2002(144) ELT 18(Guj).

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Apart from revising law curriculum to incorporate more papers on different modes of ADR, general awareness of ADR can be introduced in other disciplines of study as well. Even the educated sections of society are ignorant of ADR mechanisms. The general awareness of ADR among people would help them to have confidence in the ADR system.

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