

## **Alternative Dispute Resolution in India: An Overview**

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### **Abstract**

This Paper evaluates the financial and non-financial implications of adopting Alternative Dispute Resolution (ADR) mechanisms within nonprofit organizations. As nonprofits strive to allocate limited resources efficiently, avoiding costly litigation through ADR methods such as mediation, arbitration, and negotiation becomes critical. Using both qualitative and quantitative approaches, this paper assesses the cost savings, efficiency, reputational benefits, and internal harmony achieved through ADR compared to traditional litigation. Results suggest that ADR is a more viable and strategic option for conflict resolution in the nonprofit sector, promoting sustainability and stakeholder satisfaction.

Key Words: Alternative Dispute Resolution (ADR), nonprofit organizations, financial implications, Non-financial implications.

### **Introduction**

Nonprofit organizations operate under constrained budgets, with funding typically sourced from donors, grants, and limited revenue-generating activities. When internal or external disputes arise whether between staff, board members, volunteers, or partners resolving them through litigation can be prohibitively expensive and damage public trust. Alternative Dispute Resolution (ADR) offers a potentially more efficient and affordable solution. This paper explores the application of ADR in nonprofits, analyzing both its tangible and intangible impacts. In an increasingly complex and litigious environment, nonprofit organizations face a growing number of legal disputes, ranging from contractual disagreements to employment-related conflicts. Traditional litigation is often prohibitively expensive and time-consuming, diverting valuable resources away from mission-critical activities. Alternative Dispute Resolution (ADR) mechanisms such as mediation, arbitration, and negotiation offer potential pathways to resolve disputes more efficiently and cost-effectively. While ADR is widely adopted in the corporate and public sectors, its strategic implementation within the nonprofit sector remains underexplored. This paper seeks to fill that gap by conducting a cost-benefit analysis of ADR processes tailored to the unique operational and financial constraints of nonprofit

organizations. By examining both tangible and intangible benefits including reduced legal expenses, quicker resolution times, and preservation of organizational reputation alongside the costs and risks, this study provides actionable insights into how nonprofits can leverage ADR to enhance sustainability, accountability, and stakeholder trust.

### **Brief History of Alternative Dispute Resolution:**

Alternative Dispute Resolution (ADR) originated in the United States as a response to the limitations and drawbacks of the traditional legal system, which was increasingly viewed as adversarial, expensive, rigid, overly formalized, and often detrimental to relationships. Critics also noted its narrow focus on rights-based remedies rather than creative or collaborative problem-solving.

The foundations of ADR can be traced back to the late 19th century, when industrial conflicts particularly between labor and management spurred the development of more flexible dispute resolution mechanisms. In 1898, the U.S. Congress endorsed mediation for collective bargaining disputes, following earlier initiatives in Massachusetts and New York. This marked the beginning of formalized ADR in the labor context.

Subsequent decades saw the establishment of dedicated mediation agencies, including the Board of Mediation and Conciliation for railway labor in 1913 (later renamed the National Mediation Board in 1943) and the Federal Mediation and Conciliation Service in 1947. These institutions were tasked with facilitating the resolution of labor disputes through mediation and voluntary arbitration. The Newlands Act of 1913 and related legislation institutionalized the belief that industrial peace could be maintained by resolving conflicts outside the courtroom, promoting stable labor relations through conciliation, mediation, and arbitration.

### **Literature Review**

The complex nature of construction projects makes it prone to high incidence of dispute. In a single project, many stakeholders are involved with myriads of tasks to accomplish and diverse interest of taskmasters to meet. The taskmasters are assembled from different backgrounds to work together to achieve common construction goal. These are most likely to differ in understanding, opinion and approach on a particular matter [8] the diverse opinion being often influenced by traits [15]. If two people fail to agree on a particular matter, dispute has begun. Dispute or Conflict [16,8] is simply when diverse interests fail to align. This is common with construction where ad hoc supply chains assemble from different backgrounds with their behavioral factors such as human interaction, personality, cultures and professional background, including individual's ambition, frustration,

dissatisfaction, desire for growth, communication and level of power, fraud and faith that often cause disputes [17]. Aryal and Dahal [20] reviewed the causes of dispute in construction so as to avail better Understanding and choice of ADR methods. The scholars believe that various dispute situations can best be managed with some ADR methods. This view is in line with El-Sayegh, Ahmad, Aljanabi, Herzallah, Metry and El-Ashwa [21] who classified dispute resolution methods into avoidance, early resolution and late resolution methods. The scholars classified negotiation among avoidance and mostly used at the early stage of dispute development. Various causes of dispute were classified into three groups [20] namely, client related, contractor and consultants related. Others are Material, Labor & Equipment Related Factor, Contract & Contract Relationship and lastly External Related Factors. Divakar and Kumar [18] studied the causes of dispute based on when it arises and the sources behind its occurrence. Issues related to Retention of Deposit, Delay in Settlement of Final Bills and Claims were found to be significant sources at the point when dispute actually arises. Furthermore, Claims in Time and Cost Increase, Work Quality, Valuation of Variations were important sources of dispute.

### **Need for Alternative Dispute Resolution (ADR)**

India's judicial system is currently burdened with an overwhelming backlog of cases, resulting in significant delays in the delivery of justice. The ever-increasing volume of litigation spanning civil, criminal, commercial, and public interest matters has placed immense pressure on the traditional court system. As of recent estimates, millions of cases remain pending at various levels of the judiciary, with some disputes taking years, or even decades, to reach resolution.

This growing pendency not only undermines public confidence in the legal system but also hinders timely access to justice, particularly for vulnerable and resource-constrained parties. In this context, the need for effective and efficient dispute resolution mechanisms has become critical. Alternative Dispute Resolution (ADR) offers a viable solution to this crisis. By promoting faster, more cost-effective, and flexible methods such as mediation, arbitration, negotiation, and conciliation ADR reduces the burden on the courts while fostering amicable settlement of disputes. It also allows parties to retain greater control over the process, preserve relationships, and achieve outcomes that are more suited to their specific needs. For a country like India, where access to justice is a fundamental right, strengthening the ADR framework is essential to complement judicial reform and ensure inclusive, equitable legal redress.

### **Arbitration**

Arbitration is a private dispute resolution process in which the conflicting parties agree to submit their dispute to one or more impartial arbitrators. The arbitrator(s) render a decision, known as an "award," which is typically final and binding on the parties. Arbitration is less formal than traditional court proceedings, with more flexible procedures and often relaxed rules of evidence.

One of the key advantages of arbitration is its limited scope for judicial intervention, ensuring a quicker resolution. Apart from certain interim measures or challenges on specific legal grounds, courts generally do not interfere with the arbitral process. Arbitration falls under the category of dispute resolution mechanisms where authority is delegated to a neutral third party who makes a final determination, distinguishing it from processes like mediation or negotiation, which retain decision-making power with the parties themselves.

### **Conciliation**

Conciliation is an informal, non-binding dispute resolution process facilitated by a neutral third party known as the conciliator. The conciliator helps the disputing parties explore possible solutions and reach a mutually acceptable agreement. Unlike arbitration, the conciliator does not impose a decision but may propose terms of settlement based on discussions with both parties.

The process emphasizes cooperation and flexibility, making it suitable for preserving relationships. While the conciliator's recommendations are not binding by default, if both parties accept and sign the final settlement document, it becomes legally binding and enforceable. Conciliation thus serves as a bridge between informal negotiation and more formal arbitration, offering a voluntary yet structured approach to resolving disputes. Here is a refined and professionally worded version of the **\*\*Mediation\*\*** and Negotiation sections, consistent with the academic tone and clarity used in previous responses:

### **Mediation**

Mediation is a voluntary, confidential process in which an impartial third party referred to as the mediator facilitates communication and negotiation between disputing parties to help them reach a mutually acceptable settlement. Unlike a judge or arbitrator, the mediator does not impose a decision but supports the parties in identifying interests, clarifying issues, and exploring potential solutions.

Control over both the process and the outcome remains entirely with the parties, making mediation particularly effective in preserving relationships and promoting creative, interest-based resolutions. In India, mediators are typically required to undergo a minimum of 40 hours of training as stipulated by the Mediation and Conciliation Project Committee (MCPC) of the Supreme Court. To become an

accredited mediator, an individual must have participated in at least 20 mediation sessions, with at least 10 resulting in successful settlements.

Mediation is widely used in civil, commercial, family, and community disputes, and is especially beneficial for nonprofit organizations seeking amicable, cost-effective conflict resolution without resorting to litigation.

### **Negotiation**

Negotiation is the most fundamental and informal method of dispute resolution. It involves direct communication between the parties involved, without the involvement of any third party, to reach a mutually agreeable settlement. It is a non-binding process that relies on the willingness and skill of the parties to collaborate, compromise, and resolve their differences.

Negotiation is prevalent across various sectors, including business, government, nonprofit organizations, legal contexts, and even in personal and family matters. Its flexibility, speed, and cost-effectiveness make it an essential tool for resolving disputes, especially when parties are motivated to maintain ongoing relationships or avoid escalation.

For nonprofit organizations, negotiation can be especially useful in resolving internal disagreements, donor-related conflicts, and partnership disputes, allowing for tailored solutions that align with organizational values and mission goals.

### **Lok Adalats**

Lok Adalats, meaning "People's Courts," are a unique and significant form of Alternative Dispute Resolution (ADR) in India, designed to provide quick and accessible justice to the public, particularly in rural and underprivileged areas. Introduced in Gujarat in 1982, the concept has since expanded across the country, becoming an integral part of the Indian legal framework for handling minor and less complex cases.

The primary objective of Lok Adalats is to reduce the mounting burden of pending cases in regular courts, particularly those involving petty or non-contentious matters. By offering an informal, cost-free, and efficient mechanism for dispute resolution, Lok Adalats help ease the workload of the judiciary while ensuring timely justice for the masses.

Matters resolved in Lok Adalats include civil disputes, matrimonial issues, traffic challans, and compoundable criminal cases. The process is conciliatory rather than adversarial, and decisions—once agreed upon by both parties are final and binding, with no provision for appeal. This not only ensures swift resolution but also encourages compromise and mutual understanding between the parties

involved.

Lok Adalats play a crucial role in promoting access to justice and legal empowerment, particularly for economically weaker sections, and serve as an effective tool in the broader ADR framework.

### **Importance of Alternative Dispute Resolution (ADR) in India:**

Alternative Dispute Resolution (ADR) is very important in India. Our courts have many cases waiting to be solved, and it takes a long time for courts to finish these cases because their process is slow. ADR helps solve disputes quickly without waiting for the courts.

There are many reasons why ADR is needed: the number of cases in courts is increasing, trials are delayed, and going to court is very expensive. Because of these problems, the Arbitration and Conciliation Act was made in 1996.

Many people in India are poor and not educated, so they cannot afford the long, difficult, and costly court process. ADR can help these people by providing a faster and cheaper way to solve disputes.

Right now, it is important to reduce the number of small cases in courts so that courts can focus on serious crimes and dangerous criminals. Students should learn about ADR because it shows the benefits of avoiding long court battles.

People should know that wasting court time also increases government expenses, and these expenses come from taxes paid by citizens. There are peaceful ways to solve problems, and we just need to communicate openly and try not to go to court unnecessarily.

### **Status of ADR System in India Legal support:**

The Legal Services Authorities Act was passed in 1987 to promote solving disputes outside courts. Later, the Arbitration and Conciliation Act was introduced in 1996 to support this system.

### **Plea Bargaining:**

In 2005, the Code of Criminal Procedure added a way called plea bargaining.

Plea bargaining means that before a trial, the accused and the prosecution make a deal. The accused agrees to admit guilt in exchange for some benefits from the prosecution.

Lok Adalats:

Lok Adalats, or “people’s courts,” are informal places where disputes are settled quickly with the help of a judge, without focusing too much on strict legal rules. The decision made by Lok Adalat is final and must be followed by both sides, and no appeals can be made in regular courts.

Other Legal Updates:

In 2021, the Lok Sabha passed a law to stop people from misusing arbitration laws by cheating to get

unfair decisions. This replaced an earlier temporary rule from 2020.

In 2022, a government committee suggested many important changes to the Mediation Bill, 2021.

### **Online Dispute Resolution (ODR):**

The NITI Aayog recently published a report about the future of dispute resolution, highlighting Online Dispute Resolution (ODR).

Advantages and Disadvantages of ADR System in India:

Going through a court case can be stressful and tiring. It costs a lot of money, like court fees, lawyer fees, and fees for getting copies of documents. People involved may have to visit the court many times, spending money on travel and time.

But ADR has some good points too. It helps people solve problems without damaging their relationships. For example, in disputes about product quality or rent of commercial property, ADR helps parties work together.

Because ADR has both good and bad sides, it is important for people to think carefully if their case is suitable for ADR or not. Below are some advantages and disadvantages of ADR:

### **Advantages of ADR:**

#### **Better Access to Justice:**

ADR is easier for people who don't have much money. Saves Time and Money:

ADR can be faster and less expensive than going to court, although there is some debate about this.

Flexible and Creative:

Parties can choose the ADR method that suits them best. For example, in mediation, they decide how to solve the problem and can even agree on solutions that courts cannot offer, like changing business policies.

Confidential:

Unlike courts, where everything is public, ADR keeps things private. This is useful especially for sensitive matters like intellectual property disputes.

Here's a simple and clear summary of the **\*\*Win-Win Nature and Benefits of ADR\*\***:

Win-Win Nature and Benefits of ADR:

ADR methods are friendly and not about fighting. To keep good business relationships, it is important to solve disputes peacefully so both sides feel like winners.

Here are some key benefits of ADR:

1. ADR can be started anytime by the parties
2. It usually resolves disputes faster and costs less than court cases.
3. ADR encourages friendly and positive ways to solve problems.
4. The process is flexible and not strict like courts.
5. You don't always need a lawyer, but lawyers can still help if needed.
6. ADR reduces the burden on regular courts.
7. It keeps disputes private and confidential.
8. ADR helps lower the seriousness of conflicts between parties.

## Conclusion

For nonprofit organizations striving to fulfill missions under financial pressure, ADR offers a clear path to more efficient and less destructive conflict resolution. The evidence suggests that adopting ADR methods not only saves money but also strengthens organizational culture and stakeholder trust. Future research should expand to specific nonprofit subsectors and explore the long-term impact of ADR adoption on donor retention and employee satisfaction.

Suggestions for Improving ADR in India:

- A.** ADR institutions should be developed widely across the whole country.
- B.** Every court should have its own Arbitration and Mediation Centres.
- C.** Legal recognition of ADR is not enough; people must be aware of ADR and willing to use it instead of going to court.
- D.** Steps should be taken to encourage more people to voluntarily use ADR.
- E.** New private organizations should be created to handle non-commercial disputes.
- F.** The heavy pressure on Indian courts can be reduced by strengthening the ADR system.
- G.** To meet people's needs and give them better access to justice, the existing ADR systems should be empowered and made stronger

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