

Unlocking Economic Efficiency through Alternative Dispute Resolution in India: A Sectoral Legal-Economic Analysis

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ABSTRACT

India's legal system continues to face severe delays, with over 45 million cases pending in courts. Against this backdrop, Alternative Dispute Resolution (ADR) comprising arbitration, mediation, conciliation, and Lok Adalats—has emerged as a promising approach to ease the burden on courts while delivering faster and more cost-effective outcomes. This study examines ADR from a law-and-economics perspective, emphasizing its potential to reduce transaction and opportunity costs, improve predictability, and enhance resource efficiency. Drawing on theories by Coase and Shavell, it explores how ADR contributes to both procedural and allocative efficiency.

The research adopts a sectoral framework, analysing ADR's effectiveness in key domains such as infrastructure, MSMEs, insurance, intellectual property, and consumer protection. Case studies, including the *Delhi Metro Rail Corporation v Delhi Airport Metro Express Pvt Ltd (2021)* dispute and high-volume Lok Adalat resolutions, illustrate how ADR expedites dispute settlement and frees up economic resources.

However, several structural and institutional limitations persist such as inadequate standardisation, uneven access in rural areas, and judicial overreach in arbitral enforcement. The study evaluates emerging digital ADR platforms and the proposed Mediation Bill, 2021, offering a comprehensive assessment of their potential to transform dispute resolution.

Employing a mixed-methods approach that combines legal analysis and empirical evidence, the research proposes targeted reforms: accrediting ADR professionals, strengthening legal mandates, enhancing digital infrastructure, and building public trust through awareness initiatives. The findings suggest that with coordinated legal and policy support, ADR can

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evolve into a mainstream mechanism for delivering justice and advancing economic efficiency in India.

Keywords: Alternative Dispute Resolution (ADR), Economic Efficiency and Legal Institutions

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1. INTRODUCTION AND RESEARCH DESIGN

India's justice delivery system is experiencing a major backlog, with more than 45 million pending cases, resulting in delays and increased pressure on courts (National Judicial Data Grid, 2023).² To address this situation, Alternative Dispute Resolution (ADR) has gained importance as an effective substitute for conventional litigation. ADR encompasses arbitration, mediation, conciliation, and Lok Adalats, all of which provide quicker, less adversarial, and comparatively affordable dispute resolution. The legal basis for ADR in India is primarily found in the Arbitration and Conciliation Act, 1996 and Section 89 of the Code of Civil Procedure, 1908, along with institutional mechanisms such as court-annexed mediation centres and the Delhi Dispute Resolution Society.³ Furthermore, technological developments have expanded ADR through online platforms like Sama and Presolv360, particularly assisting fintech companies and MSMEs.

Economically, ADR is significant because it reduces transaction and opportunity costs. Prolonged litigation often locks financial resources and discourages commercial activity. An important example is *Delhi Metro Rail Corporation Ltd v Delhi Airport Metro Express Pvt Ltd* (2021), where arbitration settled a dispute worth nearly ₹7,000 crore, preventing extended financial uncertainty.⁴

From a law-and-economics perspective, Coase's theory indicates that disputes are more efficiently resolved privately when transaction costs are low.⁵ ADR procedures are flexible and party-oriented, allowing participants to choose procedures and decision-makers. Shavell also

² National Judicial Data Grid, 'Pending Cases Dashboard' (NJDG, 2023) <https://njdg.ecourts.gov.in> accessed 10 June 2025.

³ Arbitration and Conciliation Act 1996 (India).
Code of Civil Procedure 1908 (India) s 89.

⁴ *Delhi Metro Rail Corporation Ltd v Delhi Airport Metro Express Pvt Ltd* (2021) SCC OnLine SC.

⁵ Coase RH, 'The Problem of Social Cost' (1960) 3 *Journal of Law and Economics* 1.

argues that early information exchange and predictable outcomes improve legal efficiency.⁶ Arbitration enables appointment of subject-matter experts, while mediation and conciliation facilitate cooperative settlements and preservation of relationships.

Institutional economics further emphasises that reliable dispute resolution systems enhance economic stability and investor confidence. Provisions such as fast-track arbitration under Section 29B and enforceability of arbitral awards under Section 36 of the Arbitration and Conciliation Act strengthen procedural certainty. Despite these advantages, ADR adoption remains uneven, especially among MSMEs and rural litigants due to limited awareness and concerns regarding neutrality and enforceability.

This study examines ADR across sectors including infrastructure, consumer disputes, insurance, intellectual property, and MSMEs using doctrinal and empirical analysis. Strengthening ADR can reduce the burden on courts and improve the investment climate, as reflected in *Vodafone International Holdings BV v Union of India* (2012) and *Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc* (2012).⁷ With appropriate reforms, awareness, and digital integration, ADR can become a central component of India's justice delivery system.

2. CONCEPTUAL FRAMEWORK: ADR AND THE ECONOMIC PERSPECTIVE

2.1 Defining ADR and its Legislative Basis: Alternative Dispute Resolution (ADR) refers to dispute-settlement mechanisms functioning outside formal court litigation, including arbitration, mediation, conciliation, and Lok Adalats. These processes aim to provide faster, cooperative, and cost-effective outcomes, particularly in civil and commercial disputes. India's legal framework actively promotes ADR. The Arbitration and Conciliation Act, 1996 modelled on the UNCITRAL Model Law—forms the statutory basis for arbitration and conciliation, while Section 89 of the Code of Civil Procedure, 1908 authorises courts to refer parties to ADR (Vidhi Centre for Legal Policy, 2021).⁸ Lok Adalats established under the Legal Services

⁶ Shavell S, *Foundations of Economic Analysis of Law* (Harvard University Press 2004).

⁷ *Vodafone International Holdings BV v Union of India* (2012) 6 SCC 613.

Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc (2012) 9 SCC 552.

⁸ Arbitration and Conciliation Act, 1996.

Vidhi Centre for Legal Policy. (2021). *ADR and Judicial Reform in India*.

Authorities Act, 1987 resolve mass disputes such as accident claims and family matters, reflecting the constitutional goal of access to justice.⁹

2.2 Law and Economics Perspective: From a law-and-economics viewpoint, ADR is an institutional response to inefficiencies of litigation—high cost, delay, and uncertainty. By enabling negotiated settlements, ADR improves allocative and procedural efficiency (Shavell, 2004).¹⁰

2.3 Minimising Transaction and Opportunity Costs: Ronald Coase's theory explains that real-world disputes persist due to transaction costs such as legal fees and procedural complexity (Coase, 1960).¹¹ ADR lowers these costs by simplifying procedures and allowing flexible rules. Arbitration in infrastructure disputes has significantly reduced resolution time (NITI Aayog, 2018).¹² The *Delhi Metro Rail Corporation v Delhi Airport Metro Express Pvt Ltd* (2021) arbitration, involving a ₹7,000-crore claim, demonstrated how ADR can expedite settlement and conserve judicial resources. Mediation referrals typically conclude within 90 days, unlike civil litigation that may last five to eight years (DDRS, 2020; MSLSA, 2023).¹³

2.4 Predictability, Private Ordering and Institutional Trust: ADR reduces information asymmetry by encouraging cooperation and early disclosure, thereby increasing predictability (Shavell, 2004).¹⁴ The Supreme Court in *Hindustan Construction Co Ltd v Union of India* (2020) upheld enforceability of arbitral awards, strengthening investor confidence.¹⁵ Provisions such as fast-track arbitration (Section 29B) and enforceability of awards (Section 36) support private ordering and contractual certainty. International arbitration mechanisms, illustrated in *Vodafone International Holdings BV v Union of India* (2012), further align India with global dispute resolution practices.¹⁶

⁹ Legal Services Authorities Act, 1987.

¹⁰ Shavell, S. (2004). *Foundations of Economic Analysis of Law*. Harvard University Press.

¹¹ Coase, R. H. (1960). The Problem of Social Cost, 3 *Journal of Law & Economics* 1.

¹² NITI Aayog. (2018). *Arbitration and Infrastructure Dispute Resolution in India*.

¹³ Delhi Dispute Resolution Society (DDRS). (2020). *Mediation Report*.

Maharashtra State Legal Services Authority (MSLSA). (2023). *Lok Adalat Disposal Statistics*.

¹⁴ Shavell, S. (2004). *Foundations of Economic Analysis of Law*. Harvard University Press.

¹⁵ *Hindustan Construction Co Ltd v Union of India*, (2020) 17 SCC 324.

¹⁶ *Vodafone International Holdings BV v Union of India*, (2012) 6 SCC 613.

3. ECONOMIC ADVANTAGES OF ADR

3.1 Time and Cost Efficiency: Alternative Dispute Resolution (ADR) significantly lowers the duration and expense of dispute settlement. Traditional civil and commercial litigation in India often lasts five to seven years, resulting in locked capital and escalating legal costs. Mediation, however, is nearly 60% cheaper than court proceedings and generally resolves disputes in about one-third of the time (NITI Aayog, 2020).¹⁷ The Supreme Court recognised this advantage in *Afcons Infrastructure Ltd v Cherian Varkey Construction Co (P) Ltd* (2010), directing courts to actively refer suitable matters to ADR under Section 89 of the Civil Procedure Code.¹⁸ In large commercial disputes, institutional arbitration—such as proceedings before the Mumbai Centre for International Arbitration—typically concludes within 12–15 months (MCIA, 2022), while fast-track arbitration provisions under Section 29B further enhance efficiency (Shavell, 2004).¹⁹

3.2 Reduction of Judicial Backlog: India’s courts face an enormous pendency of cases, and ADR serves as an important relief mechanism. Lok Adalats dispose of mass disputes—traffic challans, cheque bounce cases, and insurance claims—within a single sitting. For example, the Maharashtra State Legal Services Authority reported settlement of around 1.2 million disputes worth approximately ₹800 crore in 2023 (MSLSA, 2023).²⁰ Mediation has also been effective in family disputes, with nearly 70% of matters resolved within 90 days (DDRS, 2020).²¹ The Supreme Court in *K. Srinivas Rao v D.A. Deepa* (2013) recommended mediation in matrimonial cases, and the Consumer Protection Act, 2019 formally introduced pre-litigation mediation (NITI Aayog, 2020).²²

3.3 Investment Climate and Business Confidence: Efficient dispute resolution mechanisms strengthen investor confidence. Amendments to the Arbitration and Conciliation Act in 2015 and 2019 introduced time-bound awards and reduced court interference. In *Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc* (2012), the Supreme Court recognised foreign-

¹⁷ NITI Aayog. (2020). *Strengthening Arbitration and Dispute Resolution in India*.

¹⁸ *Afcons Infrastructure Ltd v Cherian Varkey Construction Co (P) Ltd*, (2010) 8 SCC 24.

¹⁹ MCIA. (2022). *Mumbai Centre for International Arbitration Annual Report*.

Shavell, S. (2004). *Foundations of Economic Analysis of Law*. Harvard University Press.

²⁰ Maharashtra State Legal Services Authority (MSLSA). (2023). *Lok Adalat Disposal Statistics*.

²¹ Delhi Dispute Resolution Society (DDRS). (2020). *Mediation Performance Report*.

K. Srinivas Rao v D.A. Deepa, (2013) 5 SCC 226.

²² NITI Aayog. (2020). *Strengthening Arbitration and Dispute Resolution in India*.

seated arbitration, aligning India with international standards.²³ Later, *Hindustan Construction Co Ltd v Union of India* (2020) removed the automatic stay on arbitral awards, improving enforceability and investor sentiment (FICCI, 2022).²⁴ Consequently, infrastructure and energy contracts increasingly incorporate ADR clauses.

3.4 Productivity and Resource Allocation: Judicial delays impose significant economic costs, estimated at about 1.5% of India's GDP (India Justice Report, 2020).²⁵ Arbitration in the Delhi Metro dispute (2021) helped revive stalled infrastructure projects and release substantial capital. ADR is particularly valuable for MSMEs, with 62% reporting faster dispute resolution through mediation (FICCI, 2022).²⁶ Digital platforms such as Sama and Presolv360 now resolve fintech and e-commerce disputes within 7–15 days, offering scalable and accessible justice (DDRS, 2020).²⁷

4. SECTORAL ANALYSIS: ADR AND ECONOMIC EFFICIENCY IN PRACTICE

4.1 Cheque Bounce Cases: Cheque dishonour complaints under Section 138 of the Negotiable Instruments Act, 1881 form a substantial portion of court dockets and directly affect the working capital of MSMEs. Mediation and Lok Adalats provide faster recovery-oriented remedies. Lok Adalats, authorised by the Legal Services Authorities Act, 1987, issue binding awards and significantly reduce pendency. Nearly 65% of cheque-bounce matters referred to ADR are settled within weeks (FICCI, 2022).²⁸ The Supreme Court in *K.K. Ahuja v V.K. Vora* (2009) emphasised compensation rather than punishment in such disputes, reinforcing ADR's economic efficiency (Shavell, 2004).²⁹

4.2 Labour Disputes: Industrial conflicts can result in strikes, shutdowns, and productivity losses. The Industrial Disputes Act, 1947 mandates conciliation before adjudication, encouraging negotiated settlements. Regions with effective conciliation frameworks record

²³ *Bharat Aluminium Co v Kaiser Aluminium Technical Services Inc*, (2012) 9 SCC 552.

²⁴ *Hindustan Construction Co Ltd v Union of India*, (2020) 17 SCC 324.

FICCI. (2022). *Commercial Dispute Resolution and Arbitration in India*.

²⁵ India Justice Report. (2020). *Judicial Performance and Economic Impact Study*.

²⁶ Op.cit

²⁷ Delhi Dispute Resolution Society (DDRS). (2020). *Mediation Performance Report*.

²⁸ FICCI. (2022). *ADR and Commercial Dispute Resolution in India*.

²⁹ *K.K. Ahuja v V.K. Vora*, (2009) 10 SCC 48.

Shavell, S. (2004). *Foundations of Economic Analysis of Law*. Harvard University Press.

fewer work stoppages and lower lost man-days (Das, 2023).³⁰ In *Gujarat Steel Tubes Ltd v Gujarat Mazdoor Sabha* (1980), the Supreme Court recognised conciliation as essential for maintaining industrial peace and economic stability.³¹

4.3 Matrimonial Disputes: Family disputes often involve emotional and financial strain, which adversarial litigation aggravates. Court-annexed mediation offers a cooperative and faster alternative. The Supreme Court in *Afcons Infrastructure Ltd v Cherian Varkey Construction Co (P) Ltd* (2010) supported mediation even in non-commercial disputes.³² More than 60% of family cases referred to mediation reach settlement (Mediation and Conciliation Project Committee, 2023), and mediation reduces both litigation costs and psychological distress (Menon, 2020).³³

4.4 Banking and Finance: Delayed dispute resolution in banking contributes to rising non-performing assets (NPAs). The Insolvency and Bankruptcy Code, 2016 introduced a time-bound resolution mechanism, while Debt Recovery Tribunals function as specialised quasi-ADR forums. In *Essar Steel India Ltd v Satish Kumar Gupta* (2020), the Supreme Court upheld strict insolvency timelines.³⁴ The RBI (2023) links such mechanisms to improved loan recovery and credit discipline (Rajan, 2022).³⁵

4.5 Insurance Claims: Insurance disputes are numerous though individually small in value. The IRDAI Insurance Ombudsman scheme offers a quick and low-cost grievance forum, resolving over 23,000 cases within 90 days (IRDAI, 2023).³⁶ In *SBI Life Insurance Co Ltd v Rupa Mahajan Pahwa* (2020), the Supreme Court recognised ADR as an effective consumer protection mechanism. Efficient settlement systems enhance consumer confidence and insurance penetration (Bose, 2024).³⁷

4.6 Intellectual Property Disputes: IP disputes in technology and media sectors require confidentiality and technical expertise. Arbitration and mediation provide both advantages.

³⁰ Das, S. (2023). *Industrial Conciliation and Productivity Outcomes*.

³¹ *Gujarat Steel Tubes Ltd v Gujarat Mazdoor Sabha*, AIR 1980 SC 1896.

³² *Afcons Infrastructure Ltd v Cherian Varkey Construction Co (P) Ltd*, (2010) 8 SCC 24.

³³ Mediation and Conciliation Project Committee. (2023). *Mediation Statistics Report*.

Menon, N. (2020). *Mediation and Family Dispute Resolution*.

³⁴ *Essar Steel India Ltd v Satish Kumar Gupta*, (2020) 8 SCC 531.

³⁵ Reserve Bank of India. (2023). *Financial Stability Report*.

Rajan, R. (2022). *Banking Recovery and Legal Institutions*.

³⁶ IRDAI. (2023). *Insurance Ombudsman Annual Report*.

³⁷ Bose, R. (2024). *Consumer Confidence and Insurance ADR Mechanisms*.

Courts have supported negotiated settlements, as illustrated in *Banyan Tree Holdings (P) Ltd v A. Murali Krishna Reddy* (2010).³⁸ Internationally, about 70% of IP disputes handled by WIPO are resolved outside courts (Sen, 2023), highlighting ADR's suitability for knowledge-based industries.³⁹

4.7 Land and Environmental Disputes: Land acquisition and environmental litigation frequently delay infrastructure projects. The National Green Tribunal (NGT), created under the NGT Act, 2010, combines specialised adjudication with conciliatory approaches. Environmental jurisprudence beginning with *M.C. Mehta v Union of India* (1987) encouraged negotiated compliance.⁴⁰ Community mediation programmes have also expedited environmental clearances while maintaining sustainability (TERI, 2022; Chopra, 2023).⁴¹

4.8 MSMEs: MSMEs often lack resources for prolonged litigation. The MSMED Act, 2006 mandates conciliation for payment disputes, facilitating quicker settlements. About 65% of MSMEs using ADR resolve disputes within six months (FICCI, 2022).⁴² The Supreme Court upheld arbitration clauses in *Larsen & Toubro Ltd v Maharashtra State Electricity Board* (1995).⁴³ Low-cost enforcement mechanisms allow better allocation of limited business resources (Shavell, 2004; Singh, 2025).⁴⁴

4.9 Consumer Protection: Consumer disputes are high in number but low in value. Lok Adalats and Online Dispute Resolution systems, including e-Daakhil, provide accessible remedies. A 2025 Lok Adalat in Gadchiroli settled 122 consumer cases in a single day (Times of India, 2025).⁴⁵ The Consumer Protection Act, 2019 institutionalised online complaint filing and pre-litigation mediation (Dash, 2021).⁴⁶

4.10 Infrastructure and Construction: Infrastructure disputes involve high-value contracts and project delays. Institutional arbitration, often guided by FIDIC standards, is widely

³⁸ *Banyan Tree Holdings (P) Ltd v A. Murali Krishna Reddy*, 42 PTC 361 (Del) (2010).

³⁹ Sen, A. (2023). *WIPO Mediation and Global IP Disputes*.

⁴⁰ *M.C. Mehta v Union of India*, AIR 1987 SC 1086.

⁴¹ TERI. (2022). *Environmental Dispute Resolution in India*.

Chopra, V. (2023). *Community Mediation in Environmental Governance*.

⁴² FICCI. (2022). *ADR and Commercial Dispute Resolution in India*.

⁴³ *Larsen & Toubro Ltd v Maharashtra State Electricity Board*, (1995) 6 SCC 68.

⁴⁴ Shavell, S. (2004). *Foundations of Economic Analysis of Law*. Harvard University Press.

Singh, P. (2025). *ADR and MSME Access to Justice*.

⁴⁵ Times of India. (2025). *Lok Adalat Disposal Report*.

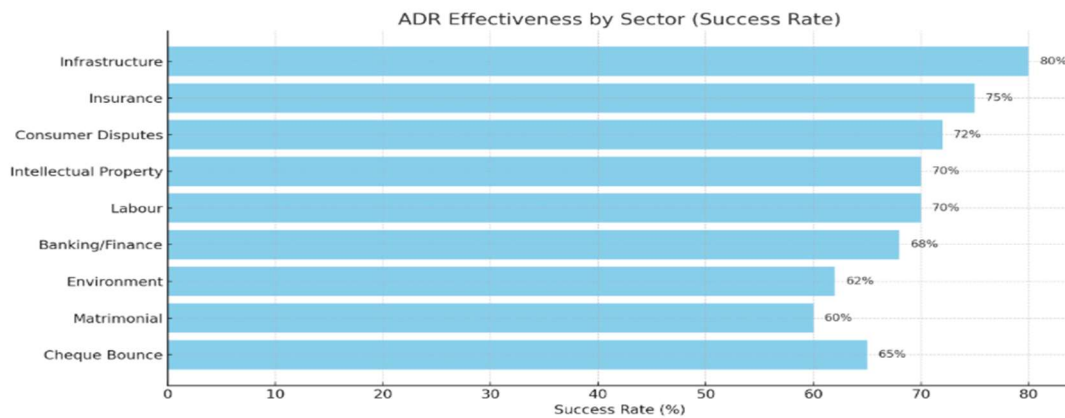
⁴⁶ Dash, S. (2021). *Digital Consumer Justice and ODR in India*.

preferred. In *Delhi Metro Rail Corporation Ltd v Delhi Airport Metro Express (P) Ltd* (2021), the Supreme Court upheld a ₹7,000-crore arbitral award, reinforcing contractual certainty. Arbitration is estimated to be about 35% faster and 20% cheaper than litigation (NITI Aayog, 2020), and ADR clauses are now common in public-private partnership contracts.⁴⁷

Table: ADR Effectiveness by Sector

Sector	ADR Mechanism Used	Avg. Resolution Time	Success Rate
Infrastructure	Arbitration	12–15 months	80%
Insurance	Ombudsman, Mediation	< 90 days	75%
Consumer Disputes	Lok Adalats, ODR	< 2 weeks	72%
Intellectual Property	Arbitration, Mediation	Case-specific	70%
Labour	Conciliation	1–3 months	70%
Banking/Finance	IBC, DRT	6–12 months	68%
Environment	NGT, Community Mediation	1–2 months	62%
Matrimonial	Family Court Mediation	< 90 days	60%
Cheque Bounce	Lok Adalats, Mediation	< 1 month	65%
Source: Compiled by the author			

⁴⁷ NITI Aayog. (2020). *Strengthening Arbitration and Dispute Resolution in India*.



Here is a horizontal bar graph illustrating the success rates of ADR mechanisms across various sectors. The chart clearly shows that Infrastructure, Insurance, and Consumer Disputes have the highest effectiveness, while Matrimonial and Environmental disputes reflect relatively lower success rates.

5. GLOBAL BEST PRACTICES AND COMPARATIVE INSIGHTS

Singapore: An Exemplary ADR Ecosystem: Singapore has emerged as a global frontrunner in the institutionalisation of Alternative Dispute Resolution (ADR), both in legal design and economic application. Its ADR landscape is anchored by premier institutions like the Singapore International Arbitration Centre (SIAC) and the Singapore Mediation Centre (SMC), which have gained international reputation for delivering impartial, efficient, and cost-effective dispute resolution. As of 2021, SIAC managed over 1,000 new arbitration cases, with an aggregate value of approximately USD 6.5 billion, underscoring its global appeal in resolving high-value commercial conflicts (SIAC, 2022).⁴⁸

One of Singapore's most significant innovations is the Arb-Med-Arb protocol, a hybrid model that allows parties to switch seamlessly between arbitration and mediation. This design offers the flexibility of mediation with the enforceability of arbitration, making dispute resolution not only adaptable but legally binding. According to Shih (2022), this model has enhanced procedural efficiency and reduced adversarial outcomes.⁴⁹ The Singapore judiciary also reinforces ADR legitimacy through its jurisprudence. For instance, in *Tomolugen Holdings Ltd*

⁴⁸ Singapore International Arbitration Centre (SIAC), *Annual Report 2022* (SIAC 2022)

⁴⁹ Shih E, *Hybrid Dispute Resolution Models in Asia: The Case of Arb-Med-Arb* (2022) 18(1) Asian International Arbitration Journal 33

v Silica Investors Ltd [2016] SGCA 57, the Court of Appeal upheld multi-tiered arbitration clauses, bolstering confidence in contractual enforcement and signalling judicial support for complex arbitration mechanisms (Tan, 2023).⁵⁰

Singapore's ADR success is reflected in global competitiveness metrics. The World Bank (2020) estimates that commercial disputes in Singapore are resolved within an average of 164 days—substantially faster than the over 1,400-day average in India.⁵¹ This judicial and procedural efficiency plays a crucial role in fostering investor trust, especially in sectors such as international trade, finance, and technology. ADR in Singapore is not viewed as an alternative but as a central component of justice delivery, integrated through policy, legal certainty, and institutional capacity.

5.2 United Kingdom: Embedding ADR into the Judicial Culture: The United Kingdom represents another leading model in institutionalising ADR within both the legal system and policy frameworks. ADR is embedded directly into the court process through the Civil Procedure Rules (CPR), especially under Rule 1.4(2)(e), which mandates judges to encourage ADR in appropriate cases. This formal integration ensures that parties consider ADR not just voluntarily but as part of the judicial expectation.

In *Halsey v Milton Keynes General NHS Trust* [2004] EWCA Civ 576, the Court of Appeal emphasised the economic rationale for ADR by permitting cost sanctions against litigants who refuse mediation without sufficient cause.⁵² Genn (2019) notes that this judgment helped crystallise the principle that ADR is not only encouraged but essential in ensuring proportionality and cost-effectiveness in legal proceedings.⁵³

The Centre for Effective Dispute Resolution (CEDR) has consistently demonstrated ADR's tangible economic benefits. Its 2022 audit reported that mediation contributes over £4.6 billion annually to the UK economy through reduced legal expenditure, lower business disruption, and timely settlement enforcement (Susskind, 2020).⁵⁴ The UK's ADR framework also includes

⁵⁰ Tan J, *Judicial Attitudes Towards Arbitration in Singapore* (2023) 25(2) Singapore Journal of Legal Studies 101

Tomolugen Holdings Ltd v Silica Investors Ltd [2016] SGCA 57

⁵¹ World Bank, *Doing Business 2020: Comparing Business Regulation in 190 Economies* (World Bank Group 2020)

⁵² *Halsey v Milton Keynes General NHS Trust* [2004] EWCA Civ 576

⁵³ Genn H, *Judging Civil Justice* (Cambridge University Press 2019)

⁵⁴ Susskind R, *Online Courts and the Future of Justice* (Oxford University Press 2020)

sector-specific measures—for instance, mandatory mediation assessments in family law and adjudication in construction disputes.

Moreover, the Online Civil Money Claims (OCMC) platform integrates technology into small claims resolution. The Ministry of Justice (2023) reported a 35% decrease in average dispute resolution time due to this digital initiative.⁵⁵ The UK experience demonstrates that institutional commitment, backed by procedural mandates and digital infrastructure, can successfully mainstream ADR into a functional and economically beneficial component of legal systems.

6. LIMITATIONS AND CHALLENGES IN INDIA

Despite policy reforms and judicial support, India's Alternative Dispute Resolution (ADR) ecosystem continues to face obstacles that restrict its wider acceptance and economic impact. These challenges range from public trust concerns to institutional and technological limitations.

6.1 Trust Deficit and Perceived Legitimacy: A major barrier to ADR adoption is the lack of public confidence in its enforceability and neutrality, particularly among rural and legally underserved populations. Forums such as Lok Adalats and informal mediations are often viewed as “second-tier justice,” affected by bias and weaker procedural safeguards. Low legal literacy, limited access to legal representation, and the informal nature of proceedings reinforce this perception (Bhatia, 2021).⁵⁶ Although over 1.4 crore cases were reportedly resolved in a single National Lok Adalat in March 2023 (NALSA, 2023), participation remains largely urban-centric, indicating socio-economic and geographic disparities.⁵⁷ Without sustained awareness and legal empowerment programs, ADR may remain confined to select groups.

6.2 Lack of Standardised Training and Regulation: India lacks a central statutory authority regulating mediator and arbitrator qualifications, ethics, and performance. The absence of accreditation leads to inconsistent service quality and sometimes post-ADR litigation (Singh, 2022).⁵⁸ Judicial intervention has occurred where arbitrator bias or procedural irregularities were alleged, undermining finality. The proposed Mediation Council of India under the

⁵⁵ Ministry of Justice (UK), *Online Civil Money Claims Service: Progress Report* (Ministry of Justice 2023)

⁵⁶ Bhatia, A. (2021). *Access to Justice and ADR Awareness in India*.

⁵⁷ National Legal Services Authority (NALSA). (2023). *National Lok Adalat Statistics Report*.

⁵⁸ Singh, K. (2022). *Regulation and Professional Standards in Indian ADR Practice*.

Mediation Bill seeks certification and monitoring mechanisms that could improve professional standards and credibility (Government of India, 2021).⁵⁹

6.3 Procedural Delays and Judicial Intervention: Despite amendments to the Arbitration and Conciliation Act in 2015 and 2019, post-award challenges under Section 34 often create a second round of litigation. Excessive judicial scrutiny weakens arbitration's advantages of speed and cost-efficiency (Sarkar, 2022).⁶⁰ India still averages more than 1,400 days to enforce a contract, discouraging business confidence (World Bank, 2020).⁶¹

6.4 Digital Divide and ODR Constraints: Online Dispute Resolution platforms show promise for low-value disputes but remain limited by digital inequality. Rural internet penetration remains significantly lower than urban access (IAMAI, 2023).⁶² Legal uncertainties concerning digital evidence, data protection, and enforceability also weaken ODR mechanisms (Joshi, 2023).⁶³ Without clearer regulation and improved infrastructure, ODR risks benefiting mainly urban users.

7. RECOMMENDATIONS FOR POLICY AND REFORM

To realise the full economic and legal benefits of Alternative Dispute Resolution (ADR) in India, a comprehensive reform approach is necessary. Although arbitration, mediation, conciliation, and Lok Adalats are increasingly valued for their speed and cost efficiency, their inconsistent application across sectors and regions restricts their overall effectiveness (Shavell, 2004).⁶⁴ A central reform priority is the professionalisation of ADR practitioners through a national certification system. The Mediation Council proposed under the Mediation Bill, 2021 should be empowered to accredit mediators, arbitrators, and conciliators, thereby ensuring uniform standards, ethical conduct, and quality assurance (Singh, 2022).⁶⁵ Such institutional regulation would also counter the perception that ADR mechanisms represent informal or inferior justice forums.

⁵⁹ Government of India. (2021). *The Mediation Bill, 2021*.

⁶⁰ Sarkar, P. (2022). *Judicial Intervention in Arbitration and Its Impact on Efficiency*.

⁶¹ World Bank. (2020). *Doing Business Report: Enforcing Contracts Indicator*.

⁶² Internet and Mobile Association of India (IAMAI). (2023). *Digital in India Report*.

⁶³ Joshi, R. (2023). *Legal Challenges in Online Dispute Resolution in India*.

⁶⁴ Shavell, S. (2004). *Foundations of Economic Analysis of Law*. Harvard University Press.

⁶⁵ Singh, K. (2022). *Professional Regulation and Accreditation of ADR Practitioners in India*.

Technological integration must accompany institutional reform. Online Dispute Resolution (ODR) platforms, including Sama and Presolv360, have demonstrated the ability to resolve disputes quickly and at low cost. However, their reach remains limited because of uneven internet access and legal uncertainties surrounding digital settlements. Expanding connectivity and explicitly recognising electronic settlements under statutes such as the Arbitration and Conciliation Act, 1996 would make ODR more inclusive and reliable (IAMAI, 2023).⁶⁶

Sector-specific initiatives are equally important. Mandatory ADR clauses in infrastructure and public-private partnership contracts, as recommended by NITI Aayog (2020), and pre-litigation mediation in MSME payment recovery cases can substantially reduce commercial litigation. District-level court-annexed mediation centres should address labour, matrimonial, and consumer disputes. In addition, public awareness is vital: legal literacy campaigns, community engagement programmes, and the inclusion of ADR training within legal education can improve trust and participation, particularly in rural and semi-urban areas (Bhatia, 2021; Genn, 2019).⁶⁷

Judicial intervention in arbitration enforcement also requires recalibration. Frequent challenges under Section 34 of the Arbitration and Conciliation Act effectively convert arbitration into a second stage of litigation, undermining its efficiency advantages. Courts should therefore intervene only where serious procedural irregularity or public policy concerns arise (Sarkar, 2022).⁶⁸ Fiscal incentives—such as tax deductions for mediation expenses, reduced stamp duty on settlement agreements, and faster credit recognition for businesses settling disputes outside court—can further encourage ADR adoption, mirroring arbitration-friendly policies in Singapore (Shih, 2022).⁶⁹

In conclusion, ADR has the capacity to improve the efficiency of India's justice system by reducing case pendency, lowering dispute costs, and unlocking commercial capital (NITI Aayog, 2020; Dash, 2021).⁷⁰ Nevertheless, regulatory gaps, accessibility barriers, and limited

⁶⁶ Op.cit

⁶⁷ Bhatia, A. (2021). *Legal Awareness and Access to Justice in ADR Systems in India*.

Genn, H. (2019). *What is Civil Justice For? Reform, ADR and Access to Justice*. Oxford University Press.

⁶⁸ Sarkar, P. (2022). *Judicial Review of Arbitral Awards and Efficiency Concerns in India*.

⁶⁹ Shih, J. (2022). *Singapore's Arbitration Policy and Economic Incentives for Dispute Resolution*.

⁷⁰ NITI Aayog. (2020). *Strengthening Arbitration and Dispute Resolution in India*. Government of India.

Dash, S. (2021). *ADR and Commercial Dispute Resolution in India*.

public trust continue to impede its mainstream acceptance. A coordinated national strategy combining professionalisation, digital modernisation, legislative clarity, and public outreach can transform ADR from an “alternative” into a primary mode of dispute resolution, thereby advancing both economic growth and access to justice (Coase, 1960; Shavell, 2004).⁷¹

⁷¹ Coase, R. H. (1960). The Problem of Social Cost, 3 *Journal of Law & Economics* 1.
Shavell, S. (2004). *Foundations of Economic Analysis of Law*. Harvard University Press.