Kuwait Research Journal of
Business Management (KRJBM)

ISSN Print: 2790-6590 | ISSN Online : 2790-6582 Open Access

A Comprehensive Study To Alleviate Case Pendency By Alternate Dispute Resolution Tools

Himani Jamwal
Research Scholar, Department of Law, Niilam University, Kaithal (Haryana)

*Corresponding Author

Himani Jamwal
Research Scholar, Department of Law, Niilam University, Kaithal (Haryana)

Article History
Received: 25.04.2026
Revise : 30.04.2026
Accepted: 10.05.2026
Published: 18.05.2026

DOI:10.61705/KRJBM.2.2.2026.52.55

Keywords: AADR, Effective, Efficiency, Fairness,Case Pendency

Abstract: Studies have shown in past that, ADR mechanisms are vital strategic tools in addressing India's judicial backlog crisis. They expedite DR, reduce costs, and ease the burden on courts, thereby improving the overall efficiency and accessibility of the justice delivery system. Thus, the goal of our study was to assess whether, ADR efficiency & effectiveness in reducing pendening cases in India with traditional tools. We have included 50 responders who were asked about ADR views and non-empirical analysis using secondary data in our study. We found that, ADR is cost effective, fast process for collaboration , maintain fairness and legally bind easily. Thus, we come to conclude that, ADR tool can be used to improve courts case conditions.

Introduction

Currently, the primary objective of the courts is to deliver justice to individuals in a timely manner while minimizing associated costs.[1] One of the primary observations is that contemporary court procedures tend to prioritize customs over the standards of job efficiency. The anticipated increase in literacy rates is expected to correlate with a rise in the number of new cases filed in the forthcoming years.[1] Consequently, it is imperative for the subordinate judiciary to enhance management competencies to effectively address the current backlog and to prepare for a potential increase in case volume.[1] The delay in case decision & pendening situation in a like country India is mainly due to increased common man understanding of their rights, not enough courts to conduct and clear these cases, lack of judges, increase misuse of public interest in litigation, case filing rates are on higher side, low rate of disposal of case, there is too much litigation from government side, constant amendment of laws and law of mangement.[2] Furthermore, one of the biggest concerns is the refusal to confront the root of the problem.[3] In spite of the fact that problems have been identified, there is a notable absence of recommended solutions that are considered to be suitable. [3] In addition to the need to incorporate court managers who are trained, talented, and competent, it is vital that court management is acknowledged as a separate concept. The judicial system, the legal profession, and governmental institutions must collaborate efficiently to strengthen this essential concept of justice.[4] Nevertheless, the honesty and expertise of individuals who are in charge of administering the system cannot be surpassed by any other system, including the legal framework.[3] In this modern age, people are becoming more aware of their rights and the legal options available to them if their rights are violated. [4] Thus, to deliver justice more effectively and reduce the workload of the court, the government should encourage solutions like alternative dispute resolution (ADR).[5,6]

Therefore in our study we have decided to evaluate the effectiveness & efficiency of ADR system to decrease case pendency in India.

ISSN Print: 2790-6590 | ISSN Online : 2790-6582 Open Access

AIM

To compare & access the effectiveness, efficiency and fairness of ADR mechanisms with traditional court litigation in resolving disputes and various precautions required to be taken by the court resorting to ADR tools**.**

MATERIAL AND METHOD

In order to verify the hypothesis that was formed, data were gathered using the secondary sources method and doctrinal research methodology. To support the study's findings, a non-empirical thematic analysis was done by looking at the practices of ten different high courts and the Supreme Court, with fifty people surveyed to share their views on the ADR process.

RESULT

PART-A

ADR mechanisms & traditional court litigation offer various ways of resolving disagreements, each with unique strengths and limits. A comparative comparison of their efficacy, efficiency, and justice are as follows:-

Efficiency

Time

1. **ADR:** Resolves disputes faster, often within months [arbitration(AR)] or weeks [mediation(MD)], due to streamlined processes and flexible scheduling.
2. **Litigation:** Can take years due to court backlogs, procedural formalities, and extended discovery phases.

Cost

1. **ADR**: Generally **lower costs** due to reduced legal fees, limited discovery, and faster resolution.
2. **Litigation**: Higher expenses from court fees, attorney costs, and prolonged timelines.

Effectiveness

Suitability

1. **ADR**: Effective for **collaborative resolutions** (e.g., business contracts, family disputes) where parties seek privacy and relationship preservation.
2. **Litigation**: Better for **complex legal issues** requiring binding precedents or when one party is uncooperative.

Enforceability

1. **ADR**: AR awards are **legally binding**, while MD n outcomes require mutual agreement for enforcement.
2. **Litigation**: Court judgments are **immediately enforceable** through legal mechanisms.

Outcome Control

1. **ADR**: Parties retain **greater autonomy** to tailor solutions.
2. **Litigation**: Decisions are imposed by judges/juries, leaving less room for customization.

Fairness

Process Transparency

1. **ADR**: Offers **confidentiality** but risks **power imbalances** if one party dominates negotiations.
2. **Litigation**: Public proceedings ensure **transparency** and judicial oversight, reducing bias risks.

Expertise

- **ADR**: Allows parties to select **neutral experts** (e.g., AR with specialized knowledge), improving decision quality in technical disputes.
- **Litigation**: Judges may lack niche expertise but follow **standardized legal protocols**.

Appeals

1. **ADR**: Limited appeal options, especially in binding AR.
2. **Litigation**: Decisions can be appealed to higher courts for review.

In summary, ADR is ideal for parties prioritizing efficiency and collaboration, while litigation remains critical for establishing legal precedents and resolving high-stakes, adversarial disputes. The choice depends on the dispute's nature, desired outcomes, and resource availability.

PART-B

When a court resorts to ADR tools, several precautions are essential to ensure the process is effective, fair, and respects the parties' rights. These precautions relate to the timing of referral, voluntariness, confidentiality, impartiality, and clarity of the ADR process. Below are the key

ISSN Print: 2790-6590 | ISSN Online : 2790-6582 Open Access

precautions courts should take when utilizing ADR mechanisms:-

Precautions Required by Courts Resorting to ADR Tools are as follows:-

1. Appropriate Timing of Referral

1. Courts should refer cases to ADR after pleadings are completed but before framing of issues, typically at the preliminary hearing stage (e.g., examination of parties under Order 10 of the Code of Civil Procedure) to maximize the chances of amicable settlement without disrupting procedural fairness.
2. In criminal cases involving compoundable offences, courts may also refer matters to mediation early to facilitate resolution.

2. Voluntariness and Consent of Parties

1. Participation in ADR processes like MD must generally be voluntary. Courts should ensure parties understand that ADR is an alternative to litigation but not mandatory unless specifically authorized by law or court rules.
2. However, courts may encourage or even order parties to engage in ADR in appropriate cases, and refusal without reasonable grounds can lead to cost sanctions or adverse inferences, as seen in English case law (e.g., *Halsey v Milton Keynes* and *PGF II SA v OMFS*).

3. Impartiality and Neutrality of Mediators or ADR Facilitators

1. Courts must ensure that mediators or neutrals are impartial and have no conflict of interest. In some jurisdictions, mediators are selected from court-approved panels or appointed by the court, separate from the trial judge to avoid bias.
2. Judges acting as mediators are generally discouraged because of potential impartiality issues if the case proceeds to trial.

4. Confidentiality of the ADR Process

1. ADR processes are typically confidential to encourage open communication and candid disclosure of interests by the parties. Courts must safeguard this confidentiality to maintain trust in the ADR process and protect sensitive information.
2. Confidentiality also distinguishes ADR from formal litigation, where proceedings are usually public.

5. Clear Communication of ADR Procedures and Consequences

1. Courts should clearly inform the parties about the nature of the ADR process, including its non-binding character (in mediation and conciliation), the possibility of binding decisions (in arbitration), and the enforceability of any agreements reached.
2. Parties should be made aware that unsuccessful ADR attempts may lead to additional costs and delays, so careful consideration is needed before referral.

6. Integration with Court Proceedings

1. Courts should coordinate ADR with ongoing litigation, for example, by staying proceedings if parties agree to ADR or have an ADR clause in their contract.
2. ADR should complement rather than replace the court system, allowing for an integrated civil justice process.

7. Consideration of Case Suitability

1. Not all disputes are suitable for ADR. Courts must assess the nature of the dispute, the relationship between parties, and the likelihood of a fair resolution through ADR before referral.
2. For instance, complex legal issues or non-compoundable criminal offences may require traditional court resolution.

Thus, these precautions help courts maintain fairness, efficiency, and integrity when employing ADR tools, ensuring that ADR serves as a constructive complement to traditional litigation rather than a procedural shortcut or source of unfairness.

Discussion

Globally, there are over 150 agencies, institutions, and NGOs related to ADR. A subset of these professionals focuses on commercial disputes, including arbitration, mediation, and conciliation, among other related areas. For these reasons, a professional body is necessary to promote new

ISSN Print: 2790-6590 | ISSN Online : 2790-6582 Open Access

mechanisms and problem-solving strategies by establishing hands-on experience generation programs with seasoned professionals, while also addressing conflicts through expert knowledge.[7] While the foundational and advanced competencies of ADR practitioners have evolved. The emergence of various styles and techniques has rendered the field exceptionally versatile, leading some business schools to incorporate negotiation-based alternative dispute resolution as elective courses.[8] Educational institutions, including schools, universities, and business schools, will incorporate negotiation and collaborative problem-solving into their core curriculum, making these subjects mandatory rather than optional.[8] Judiciaries have increasingly adopted ADR in its various forms. Consequently, governments and international organizations are providing greater support for ADR initiatives. A variety of companies and organizations have successfully implemented ADR, thereby experiencing its anticipated advantages: reduced costs, expedited resolution of disputes, and outcomes that maintain and occasionally enhance relationships.[9] Numerous organizations can mitigate conflicts by conducting a thorough analysis of root causes and implementing appropriate actions based on that analysis—an essential component of a constructive resolution strategy.[10]

Thus, in the future, ADR is set to emerge as a significant domain, attaining acknowledgment as a genuine and autonomous profession. This discipline not only resolves disputes and reduces court backlogs but also seeks to enhance its worldwide presence with official backing, incorporating ADR into judicial systems. Engaging in the academic study of adverse drug reactions is crucial.

Conclusion

In a country like India, where judicial delays and case backlogs make it difficult to dispense justice, ADR is a tool that is needed, more efficient, and more effective than traditional conflict resolution. It is in accordance with constitutional norms for equal justice, it simplifies the resolution of conflicts, it speeds up expenditures, it reduces the amount of strain that is placed on the courts, and it safeguards relationships. If our country wants to reach its full potential, it must continue to disseminate information, improve its infrastructure, and institutionalize alternative dispute resolution mechanisms using technology. The outcome of this endeavor is that the justice system will become more accessible, open, and effective, which will be beneficial to individuals, companies, and society as a whole. Therefore, the adoption and promotion of ADR tools are imperative for enhancing the overall efficiency and effectiveness of DR.

Reference

1. Faizan N. Need of the court management in the present scenario.
2. Sastry T. Access to justice and judicial pendency: confluence of juristic crisis. available at: researchgate. net.
3. Dalat S, Dewan B. Cause of pendency of cases in India: An analysis. International Journal of Health Sciences.(I):13248-52.
4. Kumar VA. Judicial delays in India: Causes & remedies. JL Pol'y & Globalization. 2012;4:16.
5. Singh T, Thakur AS. Administration of Justice: judicial delays in India. Indian Journal of Public Administration. 2019 Dec;65(4):885-96.
6. Sharma A, Singh Y. A Study On The Pendency Of Cases In Indian Courts Vis-À-Vis Human Rights. Russian Law Journal. 2023;11(1S):294-303.
7. Islam MS. Efficiency and effectiveness of alternative dispute resolution schemes towards the promotion of access to justice in Bangladesh. IIUC Studies. 2011;8:95-112.
8. Khair S. Alternative dispute resolution: how it works in Bangladesh. Dhaka Univ. Stud. Part F. 2004;15:59.
9. Shamir Y. Alternative dispute resolution approaches and their application.
10. Moffitt ML, Bordone RC, editors. The handbook of dispute resolution. John Wiley & Sons; 2012 Jun 28.