

# Exploring the relationship between ADR and Social Justice

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## Abstract

This study explores the transformative relationship between Alternative Dispute Resolution (ADR) methods and Social Justice. Alternative Dispute resolution methods were introduced with a view to reduce the burden of the justice system, which in the Indian context is crumbling under excessive load. ADR methods involve arbitration, mediation and conciliation. This study explores the functions of ADR beyond its traditional responsibility and assesses if it can be utilized to further the accessibility, inclusivity and empowerment within the judicial system.

Social Justice is a primary goal of any legal framework; it embodies equality and fair treatment amongst all the sections of the society. This study explores how ADR can address inequalities by being more accessible and inclusive along with ensuring speedy delivery of justice. The study also analyses on the prior mechanisms of ADR which are functioning, such as Lok Adalat's, and how vital have their contributions been in achieving the key goal.

The Study also evaluates the incorporation of ADR within the current legal system, and whether such integration would result in any enhancement. By employing doctrinal analysis and examining relevant case studies, this study seeks to determine whether ADR serves solely as a tool for procedural efficiency or fulfils a deeper function in promoting substantive justice. Ultimately, it aims to evaluate the extent to which ADR can act as a transformative mechanism for closing gaps in the justice delivery system and contributing to the creation of a more equitable and inclusive legal framework.

**Key Words:** ADR, Arbitration, Litigation, Mediation, Justice

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## 1. Introduction

In the recent years, traditional litigation is affected by a lot of challenges due to huge number of cases, crowding, lack of manpower and resources. It is pretty evident that traditional litigation is not the best way of resolving disputes in modern times as it makes the process of justice extra tiresome. These challenges collectively lead to significant delays, high costs and overall lack of efficiency in the legal system. Fortunately, there is a growing awareness of the alternative dispute resolution (ADR) mechanism as a viable and effective option for resolving disputes. Alternative Dispute Resolution (ADR) is a mechanism based on the unique set of processes namely mediation, arbitration and conciliation – which are designed to resolve conflicts outside of formal court proceedings. Mediation consists of a neutral third party, involved in aiding in dialogue and negotiation among parties to achieve a resolution that is acceptable to all involved disputants. Arbitration – A neutral arbitrator is appointed who is allowed to give a decision which is a binding decision after all evidences and arguments are presented in front of him. Conciliation is similar to mediation, but it frequently involves the conciliator suggesting solutions and persuading parties based on their expertise. Flexibility, speed, cost-effectiveness, and less confrontational approach are some of the advantages which can be attributed to these methods.

Ever since, ADR came into existence the burden of courts has significantly reduced and the priority is being given to serious matters of heinous crimes and other related offences. Lok Adalat is also one of the major mechanisms introduced to change the justice delivery system of our country. They were first introduced as a statutory organization under the Legal Services Authority Act, 1987. Main focus of these Adalat's is on amicable settlement and compromise rather than judicial decision. Key feature related to this organization is that they can handle both cases pending in courts as well as cases which have not reached court yet but are likely to be filed.

Justice is a universal right and every living being is entitled to seek justice from the authorities involved in rendering justice. Definition of justice is same for every section of society be it stronger sections or weaker sections. Social Justice when associated in this context, its scope gets broader according to the needs of society. Though, Social justice itself is multifaceted in nature. Salient features of social justice are distributive justice (fair allocation of resources), procedural justice (fairness in decision – making processes), restorative justice (deals with relationships and community healing) and sometimes retributive justice as a dimension that

deals with accountability. Within ADR, these concepts of social justice manifest the overall distribution of justice to be fair in every manner. A central theme on which ADR emerged as separate mechanism of granting justice was its consistent emphasis on access to justice especially for marginalized populations who experienced numerous barriers in formal judicial systems. These common barriers were exorbitant costs, prolonged litigation processes, complex legal procedures, and at times usual exclusion based on socio-economic status.<sup>3</sup>Historically, ADR has been viewed as an instrument to democratize justice by addressing these inadequacies through ways that are informal, less expensive, and more culturally sensitive.<sup>4</sup>

The state's role, with non-state actors, in incorporating and promoting ADR processes has developed over time. At first, courts and legislatures were cynical or even restrictive to ADR, perceiving it as a weaker or inferior system. Over the years, many jurisdictions have progressively incorporated ADR within formal justice frameworks, sometimes mandating ADR prior to litigation or creating integrated multi-door courthouse systems that allow for seamless referrals between formal and informal resolution processes. This integration aligns with broader access to justice reforms that view ADR not as a replacement but as a complement to judicial adjudication, beneficial for the justice system's overall capacity and reach.

## 2. Literature Review

There are various scholars who examined the role of ADR highlighting its advantages and disadvantages. Likewise, some of them are of the view that ADR is a well-researched and well-devised mechanism filling all of the major inadequacies of the current legal system, it bridges a gap existing between traditional adversarial litigation and needs of weaker sections of society. While, some of the thinkers are critical about its applicability in the longer run as well as maintaining fairness and unbiased decision making.

Scholars like Menkel-Meadow are of contention that ADR aligns with the principles of restorative justice which prioritizes reconciliation over punishment. However, critics like Nader held a notion that informal dispute resolution could be dominated by powerful and influential parties, leaving vulnerable groups at a disadvantage.

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<sup>3</sup> Legal Services Authority Act, 1987

<sup>4</sup> Arbitration & Conciliation Act 1996

Mediation, with its emphasis on voluntary participation and mutual agreement, is often seen as empowering disputants (Bush & Folger, 2005). Arbitration, while efficient, has been criticized for lacking transparency, particularly in cases involving corporate entities and individuals (Stipanovich, 2010).

Lok Adalat's in India have been lauded for reducing judicial backlog (Datar, 2018), but concerns persist about whether settlements are truly equitable. ODR, a growing field, promises greater accessibility but faces challenges in digital literacy and enforcement (Katsh & Rabinovich-Einy, 2017).

Eminent thinkers John Rawls who gave the theory of 'Justice' is also relevant when applying the basics of ADR in the society. Overall literature review can be summed as positive in terms of application and efficiency. Dispute resolution through modern techniques has helped a lot in the recent past. Capability approach given Amartya Sen is also crucial while discussing the features of ADR. Legal Aid and Lok Adalat are too predominant ways of dispute resolution although, they have their fair share of critique as well. Even after, getting accolades from many contemporaries there are still some shortcomings which needs to be addressed for improving the overall functioning.

Though, ADR has achieved pinnacles still there are few measures which require attention like lack of awareness, lesser technological knowledge, irregular appointments in tribunals, influence on decision making etc. have attracted criticism from various scholars and policy makers.

In *Afcon Infrastructure Ltd. V. Cherian Varkey Construction Co.* (2010) court held that section 89 CPC holds constitutional validity. The court vouched for switching to ADR for reducing pendency and ensuring cost effectiveness in justice delivery. In *Salem Advocate Bar Association v. Union of India* (2005), court clarified procedural aspects and highlighted the ADR to emaciate the burden on courts and promote participatory justice. In *Moti Ram v. Ashok Kumar* (2011) court emphasized for the removal of socio-economic barriers and endorsed for usage of ADR as tool for overcoming the existing deficiencies.

### 3. Statement of the Research Problem

Alternative Dispute Resolution (ADR) instruments—such as mediation, arbitration, and Lok Adalat's—are all the time more being promoted as alternatives to litigation. In India, the combination of ADR into the legal framework has been important, supported by constitutional

ethics and legal recognition. However, while ADR provides speed and flexibility, there is an increasing concern about whether it upholds the principles of social justice, particularly for vulnerable and disadvantaged communities.

Social justice, a concept, goes out of procedural fairness to include equity and substantive results that empower all people equally. The critical issue that comes is whether ADR mechanisms really serve all segments of society or tend to reproduce existing social and structural inequalities. Queries keep on regarding whether the parties—especially that from poor families—can participate on equal footing, knowing their rights, and give them free consent in ADR proceedings.

although useful in some respects, it may also cut responsibility and transparency. In circumstances where there is inherent power —such as disputes involving social groups, gender, or economic inequality—ADR can risk parties as a replacement for allowing them. It<sup>5</sup> is also not clear whether ADR ensures remedies that are enforceable and whether consequences are really just from a social view.

Other concern is the growing use of Online Dispute Resolution (ODR). Although technology can access, it may widen the justice gap if digital literacy, language barriers, and also socio-economic gaps are not addressed properly.

In spite of the popularity of ADR, there is limited practical and theoretical study that studies the relationship with social justice. Most studies focus on case resolution, overlooking more issues of equity, participation, and authorization.

Thus, the main research problem is:

Does the growing support for ADR really promote social justice, or does it risk supporting the existing inequalities in access, voice, and result within the justice system?

This research seeks to explore the question, filling the gap in the literature by analyzing how ADR mechanisms intersect with the broader goals of justice, fairness, and inclusion.

## 5. Objectives

### 5.1 Analysis of Relationship Between ADR mechanisms and Social Outcomes

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<sup>5</sup> Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (2010)

<sup>4</sup> Salem Advocate Bar Association v. Union of India (2005)

<sup>5</sup> Moti Ram v. Ashok Kumar (2011)

This study was initiated with the aim of understanding how successful ADR mechanisms – Mediation, arbitration, conciliation, Lok Adalat, ODR have been in achieving the social justice outcomes in terms of inclusion, fairness and equitable access. It examines if marginalized communities are really able to take advantage of these mechanisms or not.

#### 5.2 Evaluation of Effectiveness of Special ADR modes in achieving Access to Justice

Study revolves around the results of specific modes which were established under the ADR for achieving the access to justice. This research has been result oriented from the beginning and it pertains to highlight the effectiveness of Lok Adalat, Legal aid in the legal pretext. Study focuses on bringing out best practices and possible limitation creating hindrance in the overall progress.

#### 5.3 To Identify Barriers and Propose Recommendations to Enhance ADR's Role in Social Justice

The research will explore political, cultural, technological, and institutional barriers constraining ADR performance and formulate targeted recommendations to improve policy, practice, and awareness for inclusive dispute resolution.

#### 5.4 Is settlement and ADR better than Litigation

The study also focuses on comparing the traditional litigation with the upcoming models of ADR and analysing the better ways to achieve judicial process in a proper channel.

#### 5.5 The ADR Movement

This study revolves around how ADR became a dominant as well as a separate organization in the field of justice. Movement emphasis was majorly on incorporating the mechanisms properly and effectively.

### 6. Research Gap

Despite the rising support for ADR, a significant research gap exists in evaluating the arrangement with the values of social justice. While ADR is so praised for being faster, less expensive, and more available than traditional practice, these benefits are not always analysed through a social justice lens.

One major gap is that it lies in the limited survey of how ADR reports structural inequalities and power disparities. There is insufficient research on ADR whether processes are truly

empowering marginalized parties, or mostly in disputes involving weak groups, such as women, minorities, indigenous populations, or economically disadvantaged individuals.

Another area is the long-term power of ADR outcomes. Much of the research highlights that immediate metrics like settlement rates or user approval are given, but slight attention is paid to whether ADR leads to sustained justice, community remediation, or authorization. For example, do outcomes from restorative justice programs contribute to reconciliation, or are they only in procedural alternatives to punitive systems?

There is also a lack of relevant research across jurisdictions and cultural settings. ADR's relationship with social justice may differ significantly in different legal cultures, still studies remain largely Western-centric. There is a limited examination of how customary law, local traditions, or community-based models interact with official ADR frameworks and contribute to—or hinder—justice results.

In addition, the role of mediator or arbitrator partiality and the lack of enforceable proper standards within ADR practices have not been adequately addressed. Questions continue about whose interests are protected in casual negotiations and whether weaker sections' parties are effectively represented or heard.

Finally, recent legal scholarship has yet to analytically evaluate policy-level implications, such as how government-funded ADR schemes, court-taken mediation, or online dispute resolution platforms can be redesigned to promote fairness and accessibility, particularly for socially disadvantaged populations.

So, more critical and interdisciplinary study is needed to bridge ADR practices with the goals of social justice, ensuring that dispute resolution instruments do not merely resolve conflicts efficiently but also justifiably.

## 7. Research Model / Hypotheses

The research model is for understanding the relationship between ADR and social justice in conceptualized manner as a multi-faceted system including the crucial ADR modalities as inputs that affects justice delivery, fairness, equity and access eventually impacting social justice outcomes. The model examines that these effects are mediated and moderated by contextual factors like technological accessibility, power dynamics, cultural norms and institutional capacity.

This framework considers ADR mechanisms as independent variables: mediation, arbitration, conciliation, Lok Adalat's, and ODR. These mechanisms interact with key mediating variables such as procedural fairness, accessibility, cultural competence, and awareness. The dependent variable is the overall realization of social justice—conceptualized through access to justice, fairness in outcomes, inclusiveness, and empowerment of marginalized communities.

Contextual factors—including socio-economic status, education levels, geographic location (urban vs. rural), and digital literacy—serve as moderating variables, influencing how ADR mechanisms translate into social justice outcomes. Power asymmetries and institutional support also mediate the effectiveness of ADR processes.

The model incorporates feedback loops recognizing that increased social justice outcomes can encourage enhanced institutional support and cultural acceptance of ADR, creating a virtuous cycle of justice delivery improvements.

### Hypotheses

1. By enabling faster case resolution, ADR enhances access to timely justice and fosters greater faith in the justice delivery system.
2. ADR methods work as effectively as formal litigation and can be more suitable as mediators, negotiators come from culturally diverse backgrounds.
3. ADR processes tend to produce fairer outcomes than formal court litigation, especially in cases where there is a significant imbalance of power between the parties involved

## 8. Research Methodology

The study employs a mixed-methods research design, is a combination of qualitative and quantitative methods, to see the sights of the relationship between Alternative Dispute Resolution (ADR) and social justice. The main objective is to investigate whether ADR instruments—like mediation, arbitration, and restorative justice—give the principles of equity, inclusiveness, and fairness, mostly for weaker communities.

### Research data group and design

The research is structured around two primary data sources:



1. **Qualitative Interviews:** Semi-structured interviews are always conducted with the ADR practitioners, legal aid authorities, and individuals from underprivileged social groups of people who have participated in ADR processes. These interviews discover the subjective practices with respect to accessibility, impartiality, and perceptions of impartiality.

2. **Quantitative Survey:** A structured survey is distributed to 150 ADR users across the urban and rural areas of Madhya Pradesh, Delhi, and Uttar Pradesh. This survey consists of Likert-scale and multiple-choice questions, only focusing on fairness, satisfaction with the process and result, mediator neutrality, and ease of contribution.

### Sampling Method

Purposive sampling is used to guarantee the presence of diverse perspectives, especially from the diminished and helpless populations such as women, Dalits, economically weaker sections, and minority groups.

### Data Analysis

The qualitative data is analysed by using thematic analysis to find recurring patterns related to justice, empowerment, or discrimination. The quantitative data is estimated by using basic statistical tools to current trends in perceptions of justice. For example, opening results suggest that a majority of rural lady respondents reported limited participation in the ADR process.

### Ethical Considerations

Informed consent is obtained from all participants. Anonymity and privacy are maintained during the research process, and participants are allowed to withdraw at any point of time without any significance.

## 9. Significance

This research holds profound significance in today's world, where justice is usually got delayed or denied for those who need it most. Though Alternative Dispute Resolution (ADR) methods like mediation and arbitration are broadly encouraged as faster and cheaper alternatives to official court proceedings, it is crucial to ask: are they really fair and accessible for everyone in today's world?

For many citizens —especially women, economically weaker sections of persons, Dalits, minorities, and those in rural areas—the traditional legal system can feel detached, expensive, and intimidating. ADR gives a possible solution, but its real impact on social justice remains

underexplored. The study is to connect that gap by empathizing with how people from various backgrounds are involved in ADR. Do they really feel heard? Do they trust the process? Do the outcomes produce equality?

By joining lived experiences and observations, this research goes beyond the laws and actions to survey whether ADR promotes dignity, fairness, and core values. It also aims to point out the barriers that still exist, such as power disparities or lack of awareness, and suggest how ADR systems can be made more comprehensive and effective.

This learning will be valuable to policymakers, legal professionals, law students, and also to social justice advocates. Its findings can also contribute to better training for mediators, more reasonable design policies, and greater public trust in ADR instruments. Eventually, it supports the wide-ranging goal of making justice more involved and accessible to people, especially for those whose voices are often ignored in formal systems.

In a society where people are striving for their rights and complete growth, this research is a core part of a step toward ensuring that justice is not just a right in the system but a truth for all. This research aptly represents the debate happening between conventioners of adversarial litigation and people vouching for more legal reforms in the field of adjudication.

## 10. Conclusion

This study set out to explore a simple yet very important question: Does Alternative Dispute Resolution (ADR) actually serve the basis of social justice, or does it only offer a more rapid escape from a deliberate legal system? What we found is that the answer is not black and white.

ADR has many strengths. It is less official and often more affordable than other court processes. For many citizens, especially those who find the legal structure more expensive, ADR can feel more approachable and compassionate. It always allows people to speak in their own words, be heard in a less antagonistic setting, and sometimes even repair relationships—something courts do not often do.

But this research also exposed the gaps. ADR does not always work similarly for all. Power imbalances, lack of responsiveness, cultural or gender-based discrimination, and the absence of legal support can make the procedure unfair, especially for common people from relegated backgrounds. Just because a process is familiar to them, it does not mean it is just.

For ADR to encourage social justice, it must do more than resolve the disputes. It must enthusiastically protect the dignity, voice, and fairness of all participants. This requires better arbitrator training, community outreach, stronger ethical standards, and systems that listen to the needs of the vulnerable, not only the powerful.

This study contributes to an increasing conversation about making justice more comprehensive. It reminds us that justice is not only about outcomes but also about how people feel during the procedure. If ADR can be improved with justice at its core, it can transform how justice is delivered, making it more compassionate, accessible, and truly just for everyone.

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