

QUESTION 09

न्यायिक बोझ को कम करने के लिए भारत में वैकल्पिक विवाद समाधान (एडीआर) तंत्रों के उपयोग का आलोचनात्मक विश्लेषण कीजिए। ये तंत्र शक्तियों के पारंपरिक पृथक्करण को कैसे प्रभावित करते हैं? (15 अंक, 250 शब्द)

Critically analyse the use of Alternative Dispute Resolution (ADR) mechanisms in India to reduce the judicial burden. How do these mechanisms affect the traditional separation of powers?

(15 Marks, 250 Words)

Thought Process (Pre-Writing Work)

- Parts of the question with expected marks criteria
- Directive Word(s)
- Topic Word(s)
- Limiting Words
- Writing Presentation
- Writing Interpretation

This section will be discussed in the Answer Discussion Class.

Description of the Answer Content

Alternative Dispute Resolution (ADR) mechanisms have been progressively institutionalized in India, with the primary objective of alleviating the overwhelming burden on the judiciary and providing faster, cost-effective justice. While initiatives like the Arbitration and Conciliation Act, 1996, the Legal Services Authorities Act, 1987 (providing for Lok Adalats), and the Mediation Act, 2023, have achieved some success, the impact of ADR on the traditional separation of powers, apart from effectively resolving the huge burden of pending cases (over 5 crore by 2025) and promoting amicable settlements, is a subject of critical analysis.

Achievements:

- **Reduced backlog:** ADR mechanisms help clear the enormous backlog of cases in Indian courts, with Lok Adalats alone disposing of millions of cases annually.

- **Cost-effective and speedy justice:** By avoiding the delays and expensive formalities of traditional litigation, ADR offers a more affordable and timely resolution for parties.
- **Flexibility and confidentiality:** ADR provides flexibility in procedure and helps maintain confidentiality, which is especially beneficial for commercial and family disputes.
- **Preservation of relationships:** The non-adversarial nature of mediation and conciliation helps preserve commercial and personal relationships, unlike court battles.

Criticisms:

- **Limited effectiveness in complex cases:** ADR may not be suitable for disputes requiring judicial interpretation, constitutional questions, or where a clear precedent is needed.
- **Power imbalance:** In mediation or conciliation, there is a risk that a more powerful party may dominate the process, leading to an unfair resolution for the weaker party.
- **Implementation and enforcement issues:** Despite being legally binding, enforcing arbitral awards can be subject to delays and judicial interference, undermining their efficiency. The non-binding nature of mediation can also mean no resolution is reached.
- **Lack of awareness and resistance:** There is still widespread unawareness about ADR mechanisms, particularly in rural areas, and resistance from litigants and some lawyers who prefer the traditional litigation system.

ADR and the traditional separation of powers:

- **Complementary rather than a usurpation of judicial power:** ADR does not replace the judiciary but acts as a complementary system. For most mechanisms, the ultimate recourse and oversight remain with the courts, which can enforce or set aside awards, thus retaining judicial control.
- **Decentralization of justice delivery:** ADR facilitates a form of decentralized justice, moving dispute resolution from state-controlled courts to private forums. This shifts a portion of the judicial burden and function to arbitrators, mediators, and conciliators.

- **Legislative and executive involvement:** The legislature plays a vital role by creating and amending laws like the Arbitration and Conciliation Act, 1996, and the Mediation Act, 2023, providing the statutory framework for these mechanisms. The executive, through institutions like the Legal Services Authorities, helps operationalize them.
- **Judicial supervision and intervention:** The judiciary's role transforms from being the primary dispute adjudicator to a supervisor. Courts ensure that ADR proceedings adhere to the law, protecting against fraudulent settlements or procedural irregularities, thereby safeguarding the integrity of the justice system.

In conclusion, while ADR is an essential tool for decongesting the Indian judiciary, its usage must be balanced carefully to ensure it complements, rather than undermines, the foundational principles of judicial review, accountability, and the rule of law.

If Aspirants have any doubts, kindly ask the Mentor in the Answer Discussion Class

The purpose of this explanation is to value addition only.

One Model Answer can be...

Alternative Dispute Resolution (ADR) refers to mechanisms like arbitration, mediation, conciliation, and Lok Adalats, has emerged as a critical tool in addressing the pendency crisis in Indian courts.

Critical analysis of ADR to reduce judicial burden:

- **Reduced caseload:** ADR diverts many civil, commercial, and even minor criminal cases away from the traditional court system. For example, Lok Adalats have disposed of millions of cases annually, significantly easing the burden on regular courts.
- **Speed and cost-effectiveness:** ADR methods like mediation and conciliation are faster and less expensive than conventional litigation.
- **Enhanced access to justice:** ADR makes justice more accessible to marginalized and rural populations by providing informal, inexpensive forums like Lok Adalats.

- **Preservation of relationships:** The collaborative nature of ADR, particularly mediation, helps maintain or restore relationships between parties, which is beneficial in family or business disputes.

Critical Concerns:

- Quality and Uniformity of decisions vary.
- Lack of awareness and infrastructure in rural areas.
- Arbitration costs can be high, limiting access for weaker parties.

Despite a robust legal framework (including the Arbitration and Conciliation Act, 1996), ADR's potential remains underutilized due to low public awareness and a cultural preference for litigation.

Impact on Separation of Powers

- **Judicial Functions Delegated:** ADR does not violate the separation of powers as it operates under the supervision of the judiciary and within a legal framework.
- **Quasi-judicial Role:** ADR bodies perform quasi-judicial functions but do not usurp the role of courts; rather, they act as complementary institutions.
- **Judicial Oversight Maintained:** Awards and settlements can be challenged in courts, preserving judicial review.
- **Accountability and transparency:** A shift towards private justice could affect judicial accountability and the public's perception of the justice system.

Way Forward:

Increasing awareness, strengthen infrastructure and leverage technology can enhance the effectiveness of ADR while upholding the principles of separation of powers.

Therefore, ADR mechanisms strengthen the justice delivery system without undermining the separation of powers. With proper safeguards and awareness, they can be an effective tool to promote access to justice and reduce the burden on the judiciary.

Aspirants can use the brainstorming method to answer such information. Such method helps in avoiding unnecessary rambling and ensures that all the main points are covered within the word count.

Space for Answer Discussion

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