REFORMS TO BE MADE IN ADR LAWS- A COMPARITIVE STUDY WITH UK LAWS

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ABSTRACT
Due to its quicker and more effective alternative to the traditional court system, Alternative Dispute Resolution (ADR) has grown in significance within India's legal system. The current ADR legislation in India were passed more than 20 years ago, and since then, they have undergone some changes. However, in order to address the current issues the ADR system is facing, further extensive reforms are required. This essay examines the current ADR rules in India, examines the difficulties the system faces, and contrasts them with the UK's ADR legislation. The report makes suggestions for ADR legislative amendments in India based on the UK model. The report emphasises the necessity for strengthening the Indian ADR system to increase its effectiveness because it is still in its infancy. The ADR system has difficulties such as inadequate training of ADR practitioners, low public awareness of the ADR system, and the requirement for an efficient enforcement mechanism. The article makes the case that India's ADR regulations could be improved by using the UK model as a model. The ADR system in the UK is more extensive, with many ADR mechanisms that are well-regulated and have explicit standards on the education and training requirements for ADR practitioners. The study concludes by advising India to implement extensive reforms to strengthen its ADR laws. The suggested reforms include broadening the use of ADR procedures, creating a governing organisation for ADR practitioners, establishing minimal requirements for the education and experience of ADR practitioners, and creating a strong enforcement system. India can enhance the efficiency and efficacy of its ADR system by adopting the UK model of ADR laws. This will assist to decrease the backlog of cases in the courts, provide timely justice to litigants, and lessen the strain on the judiciary.
***Keywords**: Alternate Dispute Resolution, Arbitration, Mediation, Reforms to be made.*

INTRODUCTION

The development of science and technology has led to the globalisation and commercialization of today's globe. Now, people may interact with one another and resolve disputes and business agreements even if they are on different ends of the world. The majority of individuals no longer have the time to visit the courthouse, file papers, and then wait for a hearing for hours on end. Alternative dispute resolution (ADR) is quickly replacing litigation because of the inefficiencies and drawbacks of the latter. Though ADR techniques have not yet completely changed the litigation system in India, the country's legal system is starting to recognise its advantages. ADR has historically faced opposition from many powerful parties and their supporters, but in recent years, both the general public and the legal community have come to embrace it widely. In fact, before allowing the parties' cases to go to trial, roughly courts now require some parties to the suit to use ADR of some kind, such as mediation (in fact, the European Mediation Directive (2008) expressly anticipates so-called "compulsory" mediation).

The growing caseload of traditional courts, Meanwhile from 1990s, numerous American courts have pushed for increased use of ADR to settle disputes. ADR incurs lower costs than litigation, a preference for confidentiality, and the desire of some parties to have greater control over the choice of the person or people who will decide their dispute are all possible explanations for the rising popularity of ADR. In several jurisdictions (among which England and Wales is one), some of the top judiciary are firmly in favour of using mediation to resolve disputes.

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This article will throw some light on a brief comparison between existing ADR laws in India and United Kingdom and the reforms to be made in ADR laws in India for a better ADR mechanism in India.

1. DEVELOPMENT OF ADR MECHANISM IN INDIA

Ancient system of dispute resolution made a considerable contribution, in reaching resolution of disputes relating to family, social groups and also minor disputes relating to trade and property. Village level institutions contributed a greater space for the development of ADR mechanism, where disputes were resolved by elders, comprising Council of Village, which was an informal way of mediation. In the past, arguments hardly ever ended up in court. All parties respected the decisions made by the senior council, but after the blessing came the curse, the system itself began to lose credibility as a result of interference from political and communal forces.

During the British era, judicial administration was changed. India's current legal system is quite similar to the one that existed during the British era. The formal justice system established by the British was not the only system of administration of justice through courts but also paved a way for the development of ADR mechanism. In the days of the British Raj, the method of alternative dispute resolution was regarded as a politically significant and safe procedure in addition to being a practical one.

ADR in the present form picked up pace in the country, with the coming of the East India Company. The Bengal Regulations were responsible for developing India's modern arbitration legislation. To promote arbitration, the Bengal Regulations of 1772, 1780, and 1781 were created in addition in 1982 settlement of disputes out of courts started through Lok Adalat was introduced. On March 14, 1982, the first Lok Adalat was held in Junagarh, Gujarat, and it is currently held nationwide. Initially, without any statutory support for its conclusions, Lok Adalat operated as a volunteer and conciliatory body. Later, Lok Adalats got statutory status through the passage of the Legal Services Authorities Act, 1987, which went into effect on November 9, 1995.

The Bengal Resolution Act of 1772 and the Bengal Regulation Act of 1781 allowed parties to submit a disagreement to an arbitrator who was chosen by both parties and whose decision was final. Hence, there were numerous Regulations and legislation that were taken in subsequent considerable changes from 1772. Act VIII of 1857 codified civil court procedure, with the exception of those created by the Royal Charter, which contained Sections 312 to 325 dealing with arbitration in proceedings after many Regulations containing arbitration-related provisions. Arbitration was permitted without the involvement of the court under Sections 326 and 327. Later, The Indian Arbitration Act of 1899, the same was grounded on the English Arbitration Act of 1889, was passed after several other provisions from time to time. It was the first substantive law addressing arbitration, although it only applied to the Presidency's three major cities of Calcutta, Bombay, and Madras. Act, though it grieved from many flaws and was exposed to severe judicial criticisms.

The new Arbitration and Conciliation Act of 1996 has superseded the outdated Arbitration Act of 1940 to keep up with the globalisation of commerce.

According to an amendment made in 1976, Order XXXIIA of the Code of Civil Procedure, 1908, provides for the resolution of family-related disputes. Sections 23 (2) and 23 (3) of the Hindu Marriage Act of 1955 as well as Section 34 (3) of the Special Marriage Act of 1954 make provisions for attempts to be made towards reconciliation.

Further, in 1984, the Family Courts Act was passed. The Family Courts Act of 1984 orders that family courtsthe family court effort to reach a settlement with the parties. The Code of Civil Procedure, 1908 was amended to add Section 89 and Order X Rules 1A, 1B, and 1C. This represents a revolutionary step forward in the Indian Legislature's adoption of the "Court Referred Alternative Disputes Resolution" system.

The only existing law dealing solely with ADR is the Arbitration and Conciliation Act. All earlier acts were repealed by this one. The statute established the ADR system as a separate conflict resolution mechanism free from judicial participation or control and, unlike the previous ones, it included concepts of natural justice, fairness, etc. The act applies to international arbitration and conciliation in addition to domestic arbitration and conciliation. The status of an arbitration award is equivalent to that of a civil court's ruling. The act also specifies how foreign arbitration judgements are to be enforced. The Act was amended in 2015,

making the arbitrator accountable for any delays. As a result, the dispute resolution procedure is swift and unbiased.

ADR-related regulations are also included in the Code of Civil Procedure from 1908, in addition to these two laws. Section 89 of the Code was added by the Amendment Act of 1999, and it states that courts may order parties to a case to use an alternative dispute resolution process in order to settle their differences rather than having the matter go to trial.

2. DIFFERENCE IN UK AND INDIAN ADR LAWS

The UK ADR legislation are designed to give consumers another option for settling disputes with merchants. The UK Consumer Rights Act 2015's preamble notes that the Act's goal is to offer consumers a variety of remedies, including ADR, in the case of a disagreement with a trader. Consumer protection and ensuring that they have access to a fair and efficient dispute resolution process are the main concerns.

The Indian Arbitration & Conciliation Act, 1996 was mainly projected to as possibly the most fundamental piece of law making given its extensive term. It lays that the aim of arbitration is to attain a swift, affordable alternative dispute resolution by competent arbitrators, with the parties free to agree on boost dispute resolution through arbitration since it is a rapid, budget friendly, and confidential process and to avoid the dreary and long-term effects of lawsuit. The cost-effectiveness of arbitration as a form of substitute conflict resolution is planned in the act's preamble. The UK Arbitration Act, 1996 is described by Tweeddale and Tweeddale as "probably the most radical piece of legislation" expected its extensive term.

The UNCITRAL Model Law serves as the foundation for both laws. Two of the Indian Act's primary goals are to "minimise the supervisory role of courts in the arbitration process" and "ensure that every final arbitral award is enforced in the same manner as if it were a decree of the Court."

The statute's main goal is to prevent the judiciary and the courts from interfering in arbitration cases. As a result, it will become clearer that the judiciary only intervenes in these situations when there are exceptional circumstances or clear violations of the rules. The English Act is logical, unambiguous, and its core concepts are "party autonomy" and "judicial non-intervention." The provisions of the act imply that the doctrinal pillars be procedural fairness, party autonomy, and judicial restraint. The law states that judges must use caution when getting involved in arbitration cases. However, this is not a requirement, and the Act allows courts to use their inherent authority to right wrongs when necessary.

The preamble of the Indian ADR regulations, in contrast, has a wider scope and strives to promote ADR as a method of resolving disputes in a variety of fields. The Indian Arbitration and Conciliation Act of 1996's preamble indicates that the act's goal is to make it easier to settle disputes through arbitration and conciliation in a timely, effective, and affordable way. To lessen the load on the courts and advance a more effective and efficient justice system, the emphasis is on promoting ADR as a viable alternative to conventional litigation.

Overall, while the UK and Indian ADR laws have similar goals of offering an alternative method of resolving disputes, the Indian laws are more expansive and concentrate on promoting ADR as a method of resolving disputes across a wider range of industries, whereas the UK laws take a more consumer-focused approach.

Part I of the Indian Act is exceedingly long and is filled with various Model Law-inspired clauses. It includes clauses governing the arbitrability of disputes, the exclusion of judicial intervention, the make-up of the arbitral panel, its authority, the manner in which the arbitration is conducted, the right to contest the arbitral award, and its enforcement. Section 16 of the Act gives it the authority to decide on its own territory.

There are four components to the UK statute. General concepts, definitions, the arbitration start-up process, and the specifics of the arbitral tribunal are all included in Part I. Sec. 30 of the Act gives the tribunal the authority to decide whether or not it has jurisdiction.

The Geneva and New York conventions, also known as the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the Convention on the Execution of Foreign Arbitral Awards, respectively, are the focus of Part II of the International Commercial Arbitration Act of India. But in the UK, Part II of the UK Act covers specifically domestic arbitration agreements, consumer arbitration agreements, and small entitlements arbitration in county courts.

Part III of the Indian Act regulates conciliation and the procedures for carrying out proper conciliation processes. The New York Convention is covered in Part II of the Indian Act and Part III of the English Act respecting the Recognition and Enforcement of Arbitral Awards, respectively. Part IV of both countries' acts covers general rules.

ADR (Alternative Dispute Resolution) laws in the UK and India are similar in many ways, but there are also some key differences. Here are some of the main differences between the two:

Legal System: India follows the civil law system, whereas the United Kingdom does. Due to the fact that common law is based on judicial precedent whereas civil law is based on codified laws, this may have an impact on how conflicts are settled. The common law system in the UK may be more suited for using ADR since it places more value on adaptability and case-by-case consideration.

Legal Framework: ADR is not required in the UK, but it is promoted by the courts as a means of resolving disputes. The Legal Services Authorities Act of 1987 in India mandates that parties attempt ADR first before resorting to litigation.

Types of ADR: The three primary forms of ADR—mediation, arbitration, and negotiation—are recognised in both the UK and India. Conciliation, a form of informal dispute resolution, is a fourth type of ADR available in India.

Role of the Courts: As parties are typically free to select their own ADR technique in the UK, the courts take a more passive role in ADR. The court will only become involved if there is a disagreement regarding the ADR procedure. As they can refer parties to ADR and enforce ADR agreements, Indian courts take a more active role in ADR.

Mediation: In the UK, mediation is typically viewed as a flexible and voluntary procedure in which the mediator serves as a third party impartial to assist the parties in reaching a resolution. In India, mediation is conducted in a more structured manner by a certified mediator who is approved by the court.

Arbitration: The parties agree to submit their dispute to an arbitrator who renders a binding ruling in arbitration, which is a more formal procedure than mediation in both the UK and India. However, there are some distinctions between the two nations' arbitration laws, particularly with regard to the legal justifications for contesting an arbitral award.

Recognition and Enforcement of Awards: Under the New York Convention, an international convention that offers a framework for the acceptance and enforcement of foreign arbitral judgements, arbitration awards are generally recognised and enforceable in the UK. The effectiveness of the ADR procedure may be impacted by the delays and legal hurdles that have been experienced in India when enforcing foreign arbitral judgements.

3. JUDICIARY AND ADR IN INDIA

The essential tenet of alternative dispute resolution is that the judiciary should not intervene with arbitral processes. No judicial authority may intervene, save as allowed in part I, according to the 1996 act's express provision in sec. 5. The judiciary may intervene in arbitration at the following three stages, which are primarily:

Intervention before/during arbitration - Either party may petition the court for temporary relief at any moment prior to, during, or subsequent to the award but prior to its enforcement. If the application is brought properly, that is, on one of the five reasons listed in section 9, the court will consider it and issue the appropriate orders. The interim order issued by the court does not have to be upheld once the matter has been referred to the arbitrator.

Intervention in the appointment of the arbitrators - Section 11 sets forth the steps for the parties' appointment of the arbitrator. A party may ask the Chief Justice or any other person or institution he designates to take the necessary action when the parties, arbitrators, or any other person or institution, including one that is an institution, fails to agree, act, or carry out any function or procedure that has been assigned to them or that they are expected to agree upon under subclauses (4), (5), or (6). The act now allows for court intervention in connection to arbitration procedures for the first time. The perfect model law permit for the appointment of the arbitrator by the court, however Indian law calls for the Chief Justice of the High Court in cases of domestic arbitration and the Chief Justice of India in cases of international commercial arbitration to make the appointment. The reason for this, as stated by the Apex court in the

case of **Konkan Rly. Corp v. Rani Construction Pvt. Ltd.**[2], is to ensure that the recommendation for the arbitrator is made by a high judicial designate who would suggest a qualified, impartial, and experienced arbitrator in good faith. But if the arbitrator is picked by the court, there can be a split decision. In this regard, the court has decided that an arbitrator's appointment is more of an administrative than a judicial function. Even if the Chief Justice or another person he has chosen has a "doubt" regarding the validity or legality of the arbitration agreement, the arbitral panel must be asked to decide it; the court is not allowed to affect with the arbitration.

In the landmark judgement of **Bhatia International v. Bulk Trading S.A**[3]., it was questioned whether Indian courts may order temporary relief in international commercial arbitrations held outside of India. Because a lack of jurisdiction cannot be assumed, it must be express, the Supreme Court moved under the assumption that Indian courts would have jurisdiction over an international commercial arbitration. And as a result, it was found that Part I of the Act was applicable to international commercial arbitration proceedings held outside of India notwithstanding its opposite wording. In reaching this conclusion, the court deviated from the model law's conceptual and structural boundaries. The law court maintained its decision in subsequent cases maintaining that a party could test an arbitral award under section 34 even if the awarded outside India.[4]

Finally, the Supreme Court ruled that Part I and Part II do not overlap in the recent case of **Balco v. Kaiser**[5], overturning its previous rulings in the Bhatia and Satyam cases. The judgement distinguishes between the seat of arbitration and the location of arbitration. The court in additional acknowledged that foreign awards cannot be contested by an Indian company under section 34 until the party opposing their execution has made a showing of one or more justifications under section 48. Additionally, where the arbitration's seat is outside of India, no interim order relief under section 9 or order XXXIX of the Code of Civil Procedure would be available.

Section 34 in particular has been the subject of dispute in the past regarding the extent of judicial participation during the award's enforcement stage. The question of what constitutes public policy for setting an award under this legislation has repeatedly caused disputes in the courts. The supreme court ruled in **Renusager Power Co. v. General Electric Co**.[6] that the exemption of public policy should be interpreted narrowly, moreover it is only satisfied when the award violates: Fundamental policy of the Indian law; The interest of India; or The justice of morality.

The Supreme Court broadened the definition of public policy in the significant and contentious case of **Oil & Natural Gas Corporation Ltd v. Saw Pipes Ltd**[7] by stating that the award would be against public policy if it is "patently illegal". The court also defined "patently illegal" as going against the terms of a contract, the arbitration act, or other fundamental provisions of applied law. The judgement involved the delicate balance between the finality of the arbitration result and the scope of the allowable judicial review. This was a very broad interpretation of public policy.

4. EXTENT OF JUDICIAL INTERVENTION IN ARBITRATION IN ENGLAND

Outside of the typical procedures that take place in courts, there is a method known as alternative dispute resolution (ADR), which has gained popularity as an efficient way to settle legal disagreements. The judicial system in the United Kingdom has shown a favourable attitude toward alternative dispute resolution (ADR), acknowledging that it has the potential to reduce the workload of the courts, offer solutions that are more cost-effective, and improve access to justice. This article investigates the court attitude towards alternative dispute resolution (ADR) in the UK. It focuses on the steps that have been made to encourage its utilization, major case laws, and the difficulties that have been encountered in its application. Encouragement from the Judiciary and Case Law The judicial system in the UK has actively supported alternative dispute resolution (ADR) and actively encouraged parties to consider using it as an alternative to the court system.

[2] Konkan Rly. Corp v. Rani Construction Pvt. Ltd. Appeal (civil) 5880-5889 of 1997.
[3] Bhatia International v. Bulk Trading S.A (2002) 4 S.C.C. 105.
[4] Venture Global Engineering v. Satyam Computer Services Limited (2008) 4 S.C.C. 190
[5] Bharat Aluminium Co. Ltd. v. Kaiser Aluminium Technical Service, Inc. Civil Appeal No. 7019 of 2005
[6] Renusager Power Co. v. General Electric Co (1994) 1 S.C.C. 644
[7] Oil & Natural Gas Corporation Ltd v. Saw Pipes Ltd (2003) 5 S.C.C. 705

In the case of Halsey v. Milton Keynes General NHS Trust [2004], the Court of Appeal stressed the significance of alternative dispute resolution (ADR) and made it clear that the courts should only step in when a party's decision to decline ADR constitutes an unusual circumstance. The court acknowledged that alternative dispute resolution (ADR) had the potential to provide major benefits, including the reduction of costs and the maintenance of relationships between the parties.

R v. Horncastle: Court-Annexed Alternative Dispute Resolution The judicial system in the UK has adopted alternative dispute resolution (ADR) techniques that are court-annexed, so incorporating ADR procedures inside the court system. In R v. Horncastle, the Supreme Court of Canada underlined the need of judicial case management as a means of fostering alternative dispute resolution (ADR). The court ruled that judges should evaluate whether referring parties to mediation or other kinds of alternative dispute resolution would be suitable in the interest of justice, with the goal of encouraging parties to investigate settlement-oriented strategies. OMFS Company 1 Ltd [2013]: Case Management for PGF II SA v. OMFS Company 1 Ltd

PGF II SA v. OMFS Company Ltd brought to light the importance of case management in terms of encouraging parties to pursue alternative dispute resolution (ADR). The Court of Appeal emphasized that a party's failure to respond to an invitation to engage in alternative dispute resolution (ADR) could be considered unreasonable and could result in unfavorable costs effects. This case highlighted the role that judges play in actively engaging parties in case management conferences and pushing them to pursue alternative dispute resolution as a method for settling disagreements.

Dunnett v. Railtrack plc: Training and experience in judicial matters are extremely important components of a good alternative dispute resolution (ADR) strategy. The Court of Appeal, in the case of Dunnett v. Railtrack plc, emphasized how important it is for judges to have a solid understanding of alternative dispute resolution (ADR) procedures. The court emphasized how important it is for judges to be familiar with various mediation strategies and to have the required skills to successfully handle alternative dispute resolution (ADR) processes.

The Court's Analysis of the Results of Alternative Dispute Resolution**: Cable & Wireless Plc v. IBM United Kingdom Ltd** Cable & Wireless Plc v. IBM United Kingdom Ltd was a case that established the judiciary's involvement in examining the results of alternative dispute resolution. The judge highlighted that any agreement that was reached through mediation should be scrutinized to see whether or not it was engaged into honestly and freely. The scrutiny provided by the court in analyzing the fairness, validity, and enforceability of the settlement agreement indicated the judiciary's commitment to preserving the credibility of alternative dispute resolution (ADR) processes.

Halsey v. Milton Keynes General NHS Trust: A Case That Provides Judicial Support for Mediation, The judicial system's endorsement of mediation as a viable alternative dispute resolution strategy was made clear in the case of Halsey v. Milton Keynes General NHS Trust. Even while the parties should not be forced into mediation, the Court of Appeal still strongly recommended engaging in this process. The court emphasized that mediation permits the parties to maintain control over the outcome and can lead to solutions that are acceptable to both parties, so encouraging a more cooperative approach to the resolution of disputes.

In spite of the favourable response from the justice system toward ADR, there are still obstacles to overcome in its widespread application. There is a lack of understanding among the parties, there are concerns over the ability to enforce the agreement, and there is a notion that alternative dispute resolution may compromise legal rights.

Awareness Is Limited Many people and businesses still do not have a complete understanding of the advantages and possibilities that come with ADR. Due to a lack of information, parties may be prevented from actively considering alternative dispute resolution as a feasible option for conflict resolution. To ensure that parties are well-informed about the benefits of alternative dispute resolution (ADR) and its availability, efforts should be made to raise public awareness through educational projects, campaigns, and outreach activities.

Concerns over Enforceability It's possible that some parties will voice their concerns over the ability of ADR agreements and decisions to be enforced. Even though most forms of alternative dispute resolution, such as mediation and bargaining, do not result in legally enforceable agreements, parties still have the option to do so if they so desire. Ensuring that parties understand the repercussions of their choices and offering

methods for enforcing ADR outcomes are two things that can assist resolve concerns about the process's ability to be enforced and create confidence in it.

Another obstacle is the widespread belief that participating in alternative dispute resolution could result in a loss of legal rights and access to traditional forms of legal recourse. It is of the utmost importance to stress that alternative dispute resolution does not in any way compromise legal rights but rather offers an additional means of conflict resolution. Helping to alleviate this fear can be accomplished via the use of transparent communication and education regarding the complementary nature of ADR as well as the availability of court procedures in the event that ADR is unsuccessful in producing a settlement.

Integration of Technology As a result of developments in technology, the incorporation of online dispute resolution (ODR) platforms into alternative dispute resolution (ADR) has the potential to increase both accessibility and efficiency. Nevertheless, there are issues that need to be resolved, such as those concerning data protection and cybersecurity, as well as the modification of standard ADR procedures to work in a digital setting. It is possible for the judicial system to play a part in researching and implementing new technical developments, so guaranteeing that alternative dispute resolution procedures keep up with the demands of the digital age.

Efforts in Collaboration: It is essential for members of the judicial system, legal experts, ADR providers, and legislators to work together in order to overcome obstacles and encourage the expansion of ADR. The implementation of alternative dispute resolution (ADR) can be improved by increasing levels of understanding, fostering consistency, and resolving any problems that may crop up through the use of regular communication, cooperative training programs, and the exchange of best practices.

The response of the judicial system in the United Kingdom (UK) toward alternative dispute resolution (ADR) has been mainly positive, with judges actively supporting its use and acknowledging its potential benefits. Numerous significant case laws have underlined the importance of case management, judicial training, evaluation of ADR outcomes, and support for mediation. [Case laws] [have] also emphasized the necessity of [support for] mediation. However, obstacles such as limited understanding, worries about enforcement, and the perception of the influence that ADR has on legal rights continue to be an issue. The courts, legal professionals, and policymakers in the UK should further promote the use of alternative dispute resolution (ADR) by addressing these issues and promoting collaboration. This will ensure that ADR becomes an integral part of the landscape of dispute settlement in the UK.

Power to extend time limits - Unless a party can prove that they either sought to initiate the arbitral proceedings or they initiated alternative dispute resolution procedures that had to be exhausted before arbitral proceedings could begin, the time limit set by the parties in the arbitration agreement for the referral of a dispute to arbitration shall be upheld in accordance with sections 12(1) and 12(3). The arbitral panel determines whether to extend the time for initiating arbitration proceedings; the court is not permitted to intervene at this point.

Power to appoint an arbitrator – According to section 18 of the act, any party to the arbitration agreement may ask the court to appoint an arbitrator in the absence of any agreement. In the case of **Atlanska Plovidba v. Consignaciones Asturianas SA**[8], Moore-Bick stated that "whereas the ability to reach a fair resolution of the dispute goes to the heart of the arbitral process, delay and expense do not, unless they are so serious as to undermine that fundamental requirement." The UK courts have demonstrated a supportive attitude in this case. The arbitration legislation also expressly allows for the cancellation of already-made appointments. a clear deviation from model legislation.

Assistance to the Arbitral Tribunal – Sec. 44 of the 1996 Act gives the court the authority to take a number of actions, such as taking witness testimony, keeping evidence safe, issuing orders regarding real estate that is the subject of the proceedings, selling any goods that are, or granting interim injunctions or appointing receivers. The power of the arbitrator is often restricted to property that the parties to a proceeding own or are legally entitled to hold.[9] This section 44's phrasing is permissive rather than restrictive. According to Section 44(5), the party petitioning the court must first establish that the arbitral tribunal lacks the authority to issue the requested order. Sec. 44 is a supportive section, allowing the court to intervene as

[8] Marc Rich Agricultural Trading SA v Agrimex Ltd [2000] EWHC 193 (Comm).

[9] Sec38(4) of the Arbitration Act, 1996.

long as it is constructive and helpful and does not conflict with the arbitral tribunal's authority or independence[10].

Staying legal proceedings – Sec. 8 of the Indian Arbitration Act calls for submitting the parties to arbitration in cases where arbitration is already in place, however in the UK, things work a little differently. The act distinguishes between agreements involving domestic and international arbitration. When there is a legitimate arbitration agreement, UK law permits an immediate stay in non-domestic matters. In contrast, the court must issue a stay in domestic disputes unless it is convinced that there were good reasons to exempt the parties from the arbitration agreement. The broad breadth of this item, however, affords opportunity to the parties who want to postpone arbitration by bringing legal action in an effort to demonstrate that there are good reasons to ignore the arbitration agreement.

Inherent jurisdiction of the Court – Where it will be fair and equitable, the court has the authority to stop arbitration procedures. This might happen, for instance, if the claimant has caused such an unreasonable amount of delay that a fair hearing is impossible. In the landmark decision of Bremer Vulkan Schiffbau und Maschinenfabrik Respondents v. South India Shipping Corporation Ltd.[xxvii], the court had to determine whether it had the authority to prevent one party from participating in the arbitration. According to the court, if claimants procrastinate, they owe it to the respondents to allege that they violated the arbitration agreement. The court ruled categorically that it must be acknowledged that arbitrators lack authority and that only the court has the authority to hold a party accountable. The judiciary's ability to stop arbitral procedures constitutes, at least in theory, a major control over those proceedings that are not significantly restrained. Something that conflicts with the Model Law's guiding principles.

Judicial intervention after arbitral proceedings – The meaning and purpose of arbitral rulings are inevitably undermined by the courts' intervention at this point. There are three general categories of frameworks for arbitral awards that can be distinguished: the right to appeal problems relating to both legal and procedural fairness; the right to challenge an award exclusively for flaws in the arbitration's procedural integrity; and the absence of any judicial review. Now, for any award to be sacred or have any practical effect, it must be enforced via the summary processes procedure outlined in sec. 66. The award might, however, alternatively be enforced by filing a lawsuit in court.

The nature of the award – "The word 'award' appears throughout the laws governing municipal arbitration, as well as in arbitration rules, agreements, and conventions. However, the phrase is frequently used without definition. It is essential to distinguish awards from other arbitral tribunal orders. The remedies available to the arbitral tribunal are covered by Section 48 of the Arbitration Act of 1996. The section makes a fundamental distinction between declarations and orders.

5. REFORMS TO BE MADE IN UK ADR MECHANISM

Alternative Dispute Resolution, also known as ADR, is becoming increasingly recognized as a useful method for settling conflicts outside of the traditional court system. ADR provides the parties with more leeway, lower costs, and faster results. The administration of justice in the United Kingdom makes extensive use of alternative dispute resolution (ADR) processes such mediation, arbitration, and negotiation. On the other hand, certain changes need to be made in order to keep the UK's alternative dispute resolution law functional and up to date. In this essay, we will investigate major areas that need to be reformed in order to improve the ADR framework in the UK.

Regulatory Framework: It is of the utmost importance to develop and implement an all-encompassing regulatory framework for ADR practitioners and organizations. At the moment, the provision of ADR services in the UK is mainly uncontrolled, which results in differences in both quality and standards. The legitimacy and dependability of alternative dispute resolution (ADR) processes can be improved through the establishment of a regulating agency to monitor ADR practitioners, establish ethical rules, and assure professional competency. This authority can also develop a code of conduct and accreditation requirements for practitioners, which will offer more confidence to the parties involved in alternative dispute resolution (ADR).

[10] Hiscox Underwriting Ltd v Dickson Manchester & Company Ltd. [2004] EWHC 479 (Comm).

Consideration of Alternative Dispute Resolution Ought to Be Compulsory Introducing an obligatory consideration of alternative dispute resolution (ADR) prior to beginning court proceedings can encourage the use of ADR mechanisms as a first resort for the resolution of disputes. Before resorting to litigation, reforms should require parties to investigate and document their efforts to resolve issues through alternative dispute resolution methods (ADR methods), such as mediation or negotiation. This strategy has the potential to lessen the load placed on the judicial system, cut costs, and foster an environment that is more focused on reaching agreements through negotiation.

The potential of mediation in the UK is not being fully used, despite the fact that it is an extremely efficient technique of alternative dispute resolution (ADR). The general public, corporations, and legal professionals should all have a better understanding of the advantages of mediation as a part of the reforms that should be implemented. Awareness campaigns, educational initiatives, and training programs are all avenues that might be pursued to accomplish this goal. The incorporation of mediation instruction into legal curriculum as well as the encouragement of the use of mediation clauses in contracts are both additional ways to promote its adoption.

Online Dispute Resolution, or ODR, is a potential presented by the digital revolution to change alternative dispute resolution (ADR) processes through the use of online platforms. The United Kingdom ought to make investments in the development of a solid ODR infrastructure in order to make it easier for conflicts to be settled through online means. Platforms for online dispute resolution (ODR) can improve accessibility, efficiency, and cost-effectiveness, especially for low-value conflicts and consumer complaints. Nevertheless, the integration of technology with more conventional ADR strategies requires careful consideration, as does the preservation of data and other sensitive information.

Standardization of Arbitration Procedures Arbitration is a form of alternative dispute resolution (ADR) that is used extensively in commercial disputes. It offers the parties involved greater control, secrecy, and competence in specialized fields. Reforms should centre on standardizing arbitration procedures, expediting the enforcement of arbitral rulings, and ensuring that efficient timetables for resolving disputes are implemented so that the United Kingdom may continue to live up to its reputation as a leading arbitration jurisdiction. In addition, the Arbitration Act of 1996 should be revised so that it is in line with the best practices that are followed internationally, and any ambiguities or holes in the statute should be filled in order to make the arbitration regime more efficient.

The protection of consumers participating in alternative dispute resolution systems ought to be at the forefront of any reform efforts. It is imperative that customers, particularly in industries such as e-commerce, financial services, and consumer products, have access to alternative dispute resolution (ADR) processes that are just and open. Clear criteria should be set to make this happen. Consumer confidence and trust in alternative dispute resolution (ADR) processes can be increased by bolstering the role of ombudsmen and alternative dispute resolution (ADR) schemes in consumer disputes and developing a system for effective oversight.

6. REFORMS TO BE MADE IN INDIAN ADR MECHANISM

A technique that is both successful and economical in its approach to the resolution of legal disputes is known as alternative dispute resolution (ADR). This approach has recently gained a lot of traction in the world of law. In India, the framework for alternative dispute resolution (ADR) has been crucial in reducing the workload of the judicial system and increasing access to the legal system. Nevertheless, despite its success, the Indian Alternative Dispute Resolution (ADR) Law requires some revisions to handle newly developing difficulties and improve its effectiveness. This article examines some significant issues of Indian alternative dispute resolution law that are in need of revision.

Institutional Framework: There is tremendous potential for increased efficiency in alternative dispute resolution (ADR) procedures if specialized institutions are established to monitor and manage these procedures. Existing institutions, such as the Indian Council of Arbitration and the International Centre for Alternative Dispute Resolution, need to be strengthened, and other specialized bodies need to be established on both the national and regional levels. This is a must. ADR practitioners should have access to guidance, accreditation, and monitoring from these institutions, which will ensure that these professionals are knowledgeable and adhere to ethical norms.

Promotion and Training of Mediation: Mediation is an essential alternative dispute resolution process that has shown to be beneficial in a variety of different jurisdictions. Awareness campaigns should be the primary emphasis of India's efforts to advance the practice of mediation by educating individuals, businesses, and legal professionals about the many advantages of the process. In addition, thorough training programs need to be established in order to generate a pool of mediators who are both trained and certified. These activities will assist transform the mentality that litigation is the only option for dispute resolution and encourage parties to opt for mediation as their preferred way of conflict resolution.

Early Case Assessment and forced Mediation Implementing early case assessment or forced mediation in particular types of conflicts is one way to dramatically cut court backlogs. The courts are able to ensure that every opportunity for a peaceful resolution is investigated by making it essential for the parties involved in a dispute to participate in mediation prior to beginning any formal legal actions. This will not only save expenses and save time, but it will also foster an atmosphere that values negotiation and compromise.

Online Dispute Resolution (ODR): Using technology to aid alternative dispute resolution (ADR) processes has the potential to transform conflict settlement in this digital age. Accessibility, speed, and openness can all be improved by putting in place a comprehensive structure for the resolution of disputes online. ODR platforms can be built to enable parties to resolve disputes online, decreasing the need for in-person meetings and allowing for quicker resolutions. However, adequate thought must be given to the privacy of the data, authentication systems, and data security.

Despite the fact that arbitration is one of the most common forms of alternative dispute resolution (ADR), significant obstacles still exist. Issues concerning the enforceability of arbitral awards, time-bound proceedings, and challenges to the appointment of arbitrators should be addressed in any potential amendments to the Indian Arbitration Act. These issues should be brought into alignment with worldwide best practices. Further strengthening India's status as an arbitration-friendly country can be accomplished by the adoption of the UNCITRAL Model Law and the promotion of institutional arbitration.

Disputes Across Borders In light of the fact that international trade is becoming increasingly globalized, it is essential to resolve disputes across borders. In order to simplify the recognition and enforcement of settlement agreements that are the outcome of international mediations, India ought to take into consideration adopting the Singapore Convention on Mediation. By promoting trust and attracting foreign investment through the provision of certainty in the resolution of cross-border conflicts, the Indian government can benefit from harmonizing its laws with international accords.

Cross-Border Alternative Dispute Resolution Given the worldwide character of today's corporate transactions, it is important that any proposed reforms address cross-border ADR difficulties. India ought to take an active part in international conventions and initiatives, with the goal of guaranteeing the recognition and international enforcement of ADR agreements and rulings. Enhancing the India's attractiveness as a location for international dispute resolution by fostering collaboration and harmonization with other jurisdictions in areas such as mediation and the recognition of foreign arbitral awards will be beneficial.

CONCLUSION

In India, where there is a significant backlog of cases in the courts, Alternative Dispute Resolution (ADR) has become a critical technique for settling conflicts. The current ADR legislation in India were passed more than 20 years ago, and since then, they have undergone some changes. However, in order to address the current issues the ADR system is facing, further extensive reforms are required. This essay has examined the current ADR rules in India, noted the difficulties the system faces, and contrasted them with the UK's ADR legislation. The article suggests changes that the Indian ADR regulations should undergo by taking inspiration from the UK model.

The study has made clear that the Indian ADR system is still in its infancy and that it has to be upgraded in order to become more efficient. The ADR system has difficulties such as the need for an efficient enforcement mechanism, insufficient training of ADR practitioners, and low public awareness of the ADR system. When India updates its ADR legislation, the UK model of ADR can serve as a useful model. In the UK, there is a more extensive system for alternative dispute resolution (ADR), with various ADR processes that are well-regulated and have explicit rules about the education and training requirements for ADR practitioners.

The study suggests that in order to strengthen its ADR regulations, India needs to make significant modifications. The suggested reforms include broadening the use of ADR procedures, creating a governing organisation for ADR practitioners, establishing minimal requirements for the education and experience of ADR practitioners, and creating a strong enforcement system. India can enhance the efficiency and efficacy of its ADR system by adopting the UK model of ADR laws. This will assist to decrease the backlog of cases in the courts, provide timely justice to litigants, and lessen the strain on the judiciary.

The Article emphasises the necessity of a thorough revision of India's ADR regulations in its conclusion. India may fix the current issues with the ADR system and give its citizens access to a more effective and efficient dispute resolution system by adopting the UK model of ADR regulations. The proposed reforms, which include broadening the application of ADR mechanisms, creating a body to regulate ADR practitioners, establishing minimal requirements for ADR practitioners' education and experience, and creating a strong enforcement mechanism, will lessen the burden on the courts and help litigants receive justice more quickly and affordably. It is past time for India to take the required actions to improve its ADR system and turn it into a trustworthy and effective substitute for the established court system.

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