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ANALYSIS OF THE JUDICIAL INTERVENTION IN ALTERNATIVE DISPUTE RESOLUTION (ADR) IN INDIA

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ABSTRACT

This article presents a critical analysis of judicial intervention in Alternative Dispute Resolution (ADR) in India, exploring the complex relationship between the judiciary and ADR mechanisms such as arbitration, mediation, and conciliation. While ADR is celebrated for its efficiency, cost-effectiveness, and party autonomy, judicial oversight remains essential to uphold the rule of law and ensure fairness. However, the challenge lies in balancing necessary supervision with the principle of minimal intervention, as outlined in Section 5 of the Arbitration and Conciliation Act, 1996. The article examines statutory frameworks, including Section 89 of the Code of Civil Procedure, the Legal Services Authorities Act, 1987, and the Mediation Act, 2023, assessing their interaction with evolving judicial precedents. It also discusses the tension between judicial scrutiny and party autonomy, particularly concerning the interpretation of public policy in setting aside arbitral awards. The study reveals that while Indian courts have played a pivotal role in fostering ADR, excessive or misdirected interventions can erode its foundational objectives. Concluding with a call for a harmonized approach, the article advocates for respecting party autonomy while ensuring judicial oversight is exercised judiciously, thereby promoting a more robust and credible ADR ecosystem in India.

KEYWORDS: Judicial Intervention, Alternative Dispute Resolution, Arbitral Award, Public Policy, Code of Civil Procedure.

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1. INTRODUCTION

Alternative Dispute Resolution (ADR) has become an essential part of India's justice system. As traditional litigation struggles with delays, high costs, and complex procedures, ADR presents a practical, cost-saving, and quicker way to handle conflicts. Over the past few decades, India's judiciary, lawmakers, and legal experts have come to see the value of ADR. With courts becoming increasingly overloaded, India has officially adopted ADR methods like arbitration, mediation, conciliation, and negotiation to make resolving disputes more efficient.

Even though courts are the backbone of justice, they now also support and oversee ADR. While it's important for judges to step in sometimes to protect fairness and legal standards, doing so too often or in the wrong way can weaken ADR's key strengths like giving parties control, keeping things private, and resolving issues efficiently. So, judicial involvement needs to be limited and purposeful.

India's laws and Constitution offer strong backing for ADR. Important legal tools include the Arbitration and Conciliation Act, 1996 (as updated), the Legal Services Authorities Act, 1987, and Section 89 of the Civil Procedure Code, 1908. Notably, Section 5 of the 1996 Act says courts should only get involved as the law specifically allows, showing lawmakers want minimal court interference. Still, courts have sometimes expanded their role in ADR, such as helping choose arbitrators or canceling decisions by arguing "public policy."
Historically, India had a long tradition of resolving disputes through informal community systems like panchayats, which helped maintain order. However, during British rule, the legal focus shifted to formal courtroom battles. After independence, India began turning back toward ADR, especially with the 1996 Arbitration Act, which was based on global standards.

Indian courts have since delivered several key rulings that shape how judges can interact with ADR. For example, in SBP & Co. v. Patel Engineering Ltd.[1], the Supreme Court said that appointing an arbitrator is a judicial job, putting it under court oversight. Then, in Bharat Aluminium Co. v. Kaiser Aluminium[2], the Court ruled that Indian laws don't apply to foreign arbitrations, reinforcing the idea that courts should stay out of such cases.

Even though the Supreme Court has generally supported ADR, things don't always work

[1] SBP & Co. v. Patel Engineering Ltd (2005) 8 SCC 618 : AIR 2006 SC 450
[2] Bharat Aluminium Co. v. Kaiser Aluminium [2012] 12 S.C.R. 327

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smoothly. There are still delays, mixed interpretations, and a lack of knowledge about ADR among both the public and judges. The vague idea of "public policy" has led to more legal challenges, which goes against ADR's purpose. However, in Associate Builders Vs. DDA[3], the Court tried to clarify this by dividing public policy into three parts: basic legal rules in India, national interest, and fairness or morality.

To reduce unnecessary court involvement and boost ADR's effectiveness, lawmakers have recently made changes. Updates in 2015, 2019, and 2021 to the 1996 Act added timelines, limited court reviews, and encouraged organized arbitration systems. Plus, the 2023 Mediation Act aims to better structure mediation across India.

Courts in India must continue balancing two roles: upholding the law and promoting ADR. This balance needs clear boundaries to keep ADR fair and effective. Going forward, ADR in India will depend on disciplined judging, better legal writing, stronger ADR institutions, and more trust in settling cases outside court. This article takes a deep look at judicial roles in ADR, examining the laws, court decisions, points of involvement, ongoing issues, and possible solutions.

2. SPACE OF JUDICIAL INTERVENTION IN ADR MECHANISMS

Judicial intervention in ADR manifests in various procedural and substantive stages. While the principle of minimal court interference is codified, courts often find themselves called upon to intervene in matters involving the appointment of arbitrators, interim relief, evidence collection, and the setting aside or enforcement of arbitral awards. This chapter critically examines each stage of judicial intervention in India's ADR regime with reference to leading judgments and statutory provisions.[4]

One of the most prominent areas of judicial intervention is the appointment of arbitrators under Section 11 of the Arbitration and Conciliation Act, 1996. Initially deemed an administrative act, this function was held to be a judicial act by the Supreme Court in SBP & Co. v. Patel Engineering Ltd.[5], thereby empowering courts to examine the existence and validity of

[3] Associate Builders Vs. DDA [2014] 13 S.C.R. 895
[4] Akash Godara, "Alternative Dispute Resolution Mechanism in India and Intervention of Judiciary," *International Journal of Law Management & Humanities*, Vol. 7, Issue 3, 2024, pp. 1266-1275. DOI: https://doij.org/10.10000/IJLMH.117591.
[5] SBP & Co. v. Patel Engineering Ltd. (2005) 8 SCC 618

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arbitration agreements before appointing arbitrators. Though the 2015 amendment sought to delegate this role to arbitral institutions to reduce delays, courts continue to intervene, particularly when questions of arbitrability arise.

Courts are also empowered to grant interim measures under Section 9 of the Act, which allows parties to seek judicial relief before, during, or after arbitration proceedings. The judiciary's intervention under this section is often vital for preserving assets or evidence. In Sundaram Finance Ltd. v. NEPC India Ltd.[6], the Court held that interim measures under Section 9 are maintainable even before the arbitral tribunal is constituted. This precedent underscores the judiciary's role in supporting, rather than supplanting, arbitral proceedings.

Under Section 17, arbitral tribunals may themselves grant interim measures, but the enforcement of such orders was historically weak until the 2015 amendment, which granted them the same status as a court order. Nevertheless, parties often prefer approaching courts due to the enforceability and credibility of judicial orders.

Another area of substantial judicial scrutiny is the challenge to arbitral awards under Section 34. Although Section 34 provides limited grounds for setting aside awards, especially those contrary to public policy, courts have interpreted these grounds expansively. In Oil and Natural Gas Corporation Ltd. v. Saw Pipes Ltd.[7], the Court widened the scope of public policy to include “patent illegality,” thereby inviting frequent judicial review of arbitral awards. This precedent significantly increased court intervention, undermining the finality and expediency of arbitration.

However, subsequent judgments like Associate Builders v. DDA[8] and ONGC Ltd. v. Western Geco International Ltd.[9] attempted to rationalize this doctrine by categorizing public policy into narrower compartments. Despite these efforts, Section 34 remains a major portal for judicial interference, often blurring the line between substantive review and procedural scrutiny.

Enforcement of awards under Section 36 has also attracted judicial involvement. Before the

[6] Sundaram Finance Ltd. v. NEPC India Ltd. (1999) 2 SCC 479
[7] Oil and Natural Gas Corporation Ltd. v. Saw Pipes Ltd. (2003) 5 SCC 705
[8] Associate Builders v. DDA (2015) 3 SCC 49
[9] ONGC Ltd. v. Western Geco International Ltd. (2014) 9 SCC 263

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2015 amendment, filing a set-aside application under Section 34 automatically stayed the award's enforcement. This was reversed by the amendment, requiring a separate application for stay. However, courts still frequently grant such stays, sometimes without recording strong reasons, thus defeating the amendment's purpose.

Jurisdictional challenges also attract judicial determination. Section 16 empowers the arbitral tribunal to rule on its own jurisdiction. However, courts often interfere when parties challenge the tribunal's competence, thereby disrupting the arbitration timeline. Although the 2015 and 2019 amendments attempted to streamline this, judicial hesitation in upholding tribunal autonomy remains evident.

In the realm of mediation, particularly post the enactment of the Mediation Act, 2023, courts have been increasingly active in directing parties toward pre-litigation mediation. In Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.[10] , the Supreme Court provided a detailed guideline for court-referred ADR under Section 89 CPC, which included mediation. Courts have also started mandating mediation in matrimonial and civil disputes to facilitate early resolution and reduce litigation backlog.

Notably, the Legal Services Authorities Act, 1987 also enables judicial officers to refer parties to Lok Adalats for conciliation. Though voluntary in nature, such referrals have become a judicially encouraged route, especially in motor accident claims and civil recovery matters.

Moreover, judicial pronouncements have reaffirmed that the sanctity of ADR must be preserved by limiting interference. In K.K. Modi v. K.N. Modi[11], the Court reiterated that arbitration cannot be used as a tool for delay and that parties must adhere to the spirit of ADR.

While judicial intervention is an essential mechanism to preserve fairness and legality in ADR proceedings, it must be guided by restraint and respect for party autonomy. Courts should function as facilitators rather than substitutes for arbitral and mediation processes. Effective training of judges, clearer legislative guidelines, and greater institutional capacity are crucial

[10] Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd. (2010) 8 SCC 24
[11] K.K. Modi v. K.N. Modi (1998) 3 SCC 573

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to maintaining this balance.[12]

3. IMPACT OF JUDICIAL INTERVENTION ON THE EFFICACY AND CREDIBILITY

The success of Alternative Dispute Resolution (ADR) mechanisms is fundamentally rooted in their promise of efficiency, party autonomy, finality of awards, and a departure from the formalism of traditional litigation. However, judicial intervention, while necessary in specific instances, can at times threaten the very attributes that distinguish ADR from conventional court processes. This chapter explores the implications of judicial interference on the efficacy and perception of ADR in the Indian context.[13]

One of the principal objectives of arbitration and mediation is to offer a quicker and less adversarial route to dispute resolution. Yet, Indian courts' expansive interpretation of provisions like Section 34 and their frequent entertaining of challenges under "public policy" have led to significant delays. For instance, in ONGC v. Saw Pipes*[14]*, the Supreme Court's broad reading of public policy introduced a precedent that enabled losing parties to routinely challenge awards, thereby extending litigation timelines and reducing the incentive to choose arbitration over litigation.

This judicial approach has created an unpredictable environment, where parties are unsure whether an arbitral award will withstand court scrutiny, thus undermining confidence in the finality and enforceability of ADR outcomes. The 2015 amendment sought to limit this by narrowing the definition of public policy, but subsequent judgments continue to leave room for ambiguity.

Furthermore, judicial delays in appointing arbitrators under Section 11—especially before the 2019 amendment delegated this responsibility to designated arbitral institutions—have stalled the initiation of arbitration proceedings. In Duro Felguera v. Gangavaram Port Ltd.*[15]*, the Supreme Court reiterated that courts should confine themselves to the mere existence of an

[12] Krishnaja Olappamanna & Swarlata Pandey, "Court's Intervention in Arbitration Proceedings: A Maneuver Between Courts and Arbitral Tribunals," *International Journal of Scientific Development and Research (IJSDR)*, Vol. 8, Issue 9, 2023. ISSN: 2455-2631.
[13] Niharika Gupta, "Judicial Intervention in the Arbitral Process," *International Journal of Advanced Legal Research*, 2022. ISSN: 2582-7340.
[14] ONGC v. Saw Pipes (2003) 5 SCC 705
[15] Duro Felguera v. Gangavaram Port Ltd (2017) 9 SCC 729

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arbitration agreement, but lower courts have not always adhered to this minimalist role.

Mediation, too, suffers from judicial overreach or underutilization. Despite Section 89 CPC and the recent Mediation Act, 2023, there remains a lack of clarity and uniformity in how courts refer disputes to mediation. Often, judicial referral is made as a formality, without adequate infrastructure or follow-through, leading to superficial compliance rather than genuine dispute resolution.

Judicial intervention can also affect investor confidence in the Indian legal system. International investors and multinational corporations favor jurisdictions where arbitration awards are respected and enforced with minimal judicial interference.[16] The delay in enforcement and uncertainty created by judicial scrutiny has, in some cases, dissuaded investors from choosing India-seated arbitrations. For instance, the retrospective tax arbitration disputes involving Vodafone and Cairn Energy, though involving international forums, underscored concerns about India's attitude toward respecting arbitral outcomes.

Moreover, the interference has financial implications. Extended judicial proceedings translate into increased legal costs, which negate one of the chief advantages of ADR—cost efficiency. In sectors like construction and infrastructure, where arbitration is the preferred method of dispute resolution, frequent court interventions can jeopardize time-sensitive projects and burden public resources.

Nevertheless, it must be acknowledged that not all judicial interventions are unwarranted. Courts have played a vital role in correcting egregious errors, ensuring natural justice, and weeding out corrupt or biased arbitrators. In Perkins Eastman Architects DPC v. HSCC (India) Ltd.*[17]*, the Supreme Court emphasized the need for neutrality in arbitrator appointments, illustrating the judiciary's constructive influence.

In summation, while judicial oversight is essential for maintaining the integrity of ADR mechanisms, over-intervention risks diluting their core strengths. A calibrated judicial approach—anchored in deference to arbitral autonomy, swift procedural timelines, and

[16] Rohit Srivastava & Ishani Yog, "Exploring India's ADR Landscape: Spotlight on Arbitration and Jurisdiction," *International Journal of Advanced Legal Research*, Vol. 4, Issue 1, August 2023. ISSN: 2582-7340.
[17] Perkins Eastman Architects DPC v. HSCC (India) Ltd (2019) 20 SCC 760

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adherence to the legislative intent behind the ADR framework—is imperative to restore faith in the system. Reforms must also include capacity-building initiatives for the judiciary and adoption of institutional arbitration practices to limit the scope for court intervention.

4. COMPARATIVE PERSPECTIVES ON JUDICIAL INTERVENTION IN ADR WITH INTERNATIONAL EXPERIENCES

Judicial intervention in Alternative Dispute Resolution (ADR) mechanisms reflects a jurisdiction's commitment to party autonomy, rule of law, and efficiency in dispute resolution.[18] India's ADR framework has matured over decades through legislative amendments and judicial pronouncements, but challenges remain, particularly around the overreach or hesitancy of courts. To identify possible reforms, it is imperative to compare India's experience with leading ADR jurisdictions such as the United States, the United Kingdom, Singapore, and Australia, where judiciary ADR relations are more nuanced and institutionalized.

In the United States, the Federal Arbitration Act (FAA) of 1925 governs arbitration and embodies the principle of minimal judicial intervention. U.S. courts play a limited role in arbitration, typically restricted to grounds such as fraud, corruption, or evident partiality as per 9 U.S. Code § 10. Judicial support of ADR is evident in landmark decisions such as AT&T Mobility LLC v. Concepcion,[19] where the Supreme Court upheld the enforceability of arbitration agreements even when class action rights were waived. This robust legal endorsement has made the U.S. a favorable arbitration venue.

Similarly, the United Kingdom's Arbitration Act 1996 provides a structured yet restrained role for courts. Under Section 1(c) of the Act, parties are free to agree how their disputes are resolved, subject only to such safeguards as are necessary in the public interest. While courts may intervene under Sections 67, 68, and 69 to address issues of jurisdiction, serious irregularity, or points of law, this is done sparingly. The UK Supreme Court's decision in Halliburton Company v. Chubb Bermuda Insurance Ltd.[20] clarified arbitrator duties of impartiality, reinforcing judicial support without compromising arbitral independence.

[18] Rukmini Das & Anisha Keyal, "Judicial Intervention in International Arbitration," *NUJS Law Review*, Vol. 2, 2009, pp. 585-600. ISSN (Online): 0975-0207, ISSN (Print): 0975-0029.
[19] 563 U.S. 333 (2011)
[20] Halliburton Company v. Chubb Bermuda Insurance Ltd. [2020] UKSC 48

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Singapore has emerged as a global arbitration hub, owing largely to a judiciary that champions ADR while refraining from undue interference. The Singapore International Arbitration Centre (SIAC) and Singapore Mediation Centre (SMC) operate under a legal framework that encourages deference to party autonomy. The International Arbitration Act (IAA) limits court intervention to specific areas like interim relief and enforcement. The Singapore High Court in PT First Media TBK v. Astro Nusantara International BV[21] upheld the principle of kompetenz-kompetenz, reinforcing that arbitral tribunals must be trusted with jurisdictional questions, barring extreme procedural violations.

In Australia, the International Arbitration Act 1974 integrates the UNCITRAL Model Law on International Commercial Arbitration. Australian courts adopt a pro-enforcement stance, as seen in TCL Air Conditioner (Zhongshan) Co Ltd v. Judges of the Federal Court of Australia[22], where the High Court confirmed the constitutional compatibility of enforcing foreign arbitral awards. Australian jurisprudence often emphasizes a 'hands-off' approach unless natural justice is at stake.

By contrast, India's judicial involvement in arbitration has been more intense. Despite the Arbitration and Conciliation Act, 1996 being based on the UNCITRAL Model Law, Indian courts have often expanded their scrutiny. The infamous decision in ONGC Ltd. v. Saw Pipes Ltd.[23], which broadened the "public policy" ground under Section 34, set a precedent for frequent judicial interference. This stands in contrast to the international trend of minimal scrutiny.

Subsequent reforms like the 2015 and 2019 amendments sought to align India's framework with global best practices, narrowing the scope of Section 34 and introducing institutional arbitration under Section 11. Nonetheless, courts have continued to intervene under the guise of "patent illegality" or "interest of justice," slowing proceedings and reducing the finality of awards.

[21] PT First Media TBK v. Astro Nusantara International BV [2014] 1 SLR 372
[22] TCL Air Conditioner (Zhongshan) Co Ltd v. Judges of the Federal Court of Australia [2013] HCA 5
[23] ONGC Ltd. v. Saw Pipes Ltd (2003) 5 SCC 705

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A comparison with international jurisdictions reveals several lessons for India:

1. **Codify Limits on Judicial Review**: Like the FAA and IAA, India must clearly demarcate the limited grounds on which courts may intervene. Judicial training is essential to ensure uniform application.
2. **Encourage Institutional Arbitration**: India should follow the example of Singapore and the UK by developing arbitration institutions and entrusting them with functions like arbitrator appointments and administrative support, reducing the burden on courts.
3. **Promote Mediation through Judiciary**: While India's Mediation Act, 2023, is a step forward, courts must consistently apply it with proper monitoring mechanisms. In the UK and Singapore, courts not only refer disputes to mediation but also ensure follow-through by incorporating mediated settlements into consent decrees.
4. **Reduce Delays in Appointment and Enforcement**: Courts in jurisdictions like Australia enforce awards swiftly and rarely stay enforcement unless compelling reasons exist. Indian courts must adopt similar urgency.
5. **Respect for Arbitral Autonomy**: Judicial intervention should be corrective, not substitutive. Courts in the US and UK defer to arbitrators on procedural matters and discourage de novo review of factual findings.
6. **Transparent Arbitrator Conduct**: Inspired by the Halliburton case, India can improve guidelines on arbitrator disclosures to build credibility without judicial micromanagement.
7. **Specialized Commercial Courts**: Establishing exclusive ADR benches or commercial courts, as seen in Singapore and the UK, can create an environment where judges are experts in ADR jurisprudence and less likely to intervene unnecessarily.

5. REFORMS AND RECOMMENDATIONS FOR JUDICIAL INTERVENTION

In the previous chapters, we examined the framework of Alternative Dispute Resolution (ADR) in India, the role of judicial intervention, and comparative perspectives from international jurisdictions. While ADR mechanisms are instrumental in alleviating the burden on the judicial system and promoting more efficient dispute resolution, judicial intervention remains necessary to ensure fairness, justice, and the protection of party autonomy. This chapter offers key recommendations and reforms for judicial intervention in ADR in India, drawing from international best practices and judicial precedents, while highlighting the critical importance

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of limiting excessive interference.

I. Need for Judicial Awareness and Training: The primary challenge to the efficient functioning of ADR in India is the inconsistency and sometimes excessive judicial intervention. While courts are required to intervene to ensure fairness and adherence to the rule of law, they must be educated on the principles underlying ADR and the necessity to limit their interference. Judicial training programs focused on ADR mechanisms can help raise awareness of how ADR works, and the role of the court in ensuring fairness without disrupting party autonomy.

In the context of arbitration, for instance, the Federal Arbitration Act (FAA) in the United States encourages minimal judicial intervention. It is essential that Indian judges be trained to understand the complexities of international arbitration and the need to limit their involvement, particularly in arbitration proceedings involving international parties. The Singapore International Arbitration Centre (SIAC), through regular seminars and workshops, has played a pivotal role in training its judiciary to respect party autonomy and exercise intervention only in rare, exceptional circumstances. India must adopt similar initiatives to align with global standards.

II. Codification of Limits on Judicial Review

As mentioned earlier in this article, judicial overreach has been a significant issue in India's ADR framework. Section 34 of the Arbitration and Conciliation Act, 1996, which allows courts to set aside arbitral awards on several grounds, has been subject to expansive interpretation by the courts. The decision in ONGC Ltd. v. Saw Pipes Ltd. (2003) 5 SCC 705 is a prime example where the Supreme Court of India expanded the definition of "public policy" to include patent illegality, leading to excessive judicial scrutiny over arbitral awards.

One of the key recommendations to address this issue is to codify the limits on judicial review and ensure that courts intervene only on specific, narrowly defined grounds. This could be done by introducing clearer guidelines or a statute like the U.S. Federal Arbitration Act (FAA), which limits judicial intervention to cases involving issues such as fraud, corruption, or impartiality. By doing so, India would ensure that arbitral awards are given greater finality, thus promoting confidence in ADR mechanisms.[24]

[24] Rukmini Das & Anisha Keyal, "Judicial Intervention in International Arbitration," NUJS Law Review, Vol. 2, 2009, pp. 585–600. ISSN (Online): 0975-0207

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III. Strengthening Institutional Arbitration

A significant issue in India's ADR landscape is the underdeveloped nature of institutional arbitration. Institutions such as the Indian Council of Arbitration (ICA), Mumbai Centre for International Arbitration (MCIA), and Delhi International Arbitration Centre (DIAC) are relatively young, and many arbitral matters are still resolved by ad-hoc methods. The role of institutions in arbitration, as seen in jurisdictions like Singapore, is instrumental in streamlining proceedings and reducing judicial interference. Institutions help ensure transparency, consistency, and accountability in arbitration proceedings.

India must promote institutional arbitration by empowering institutions to manage arbitration proceedings, appoint arbitrators, and administer awards. This would reduce the burden on courts, as institutions can ensure procedural fairness without needing court intervention at every step. Additionally, institutional arbitration has been instrumental in jurisdictions like the United Kingdom and Singapore in maintaining consistent standards in arbitration, which minimizes judicial scrutiny.[25]

IV. Establishment of Specialized ADR Courts or Benches

To ensure that ADR cases receive the attention they deserve, India could consider establishing specialized ADR courts or commercial courts, as practiced in Singapore and the United Kingdom. Specialized courts would have judges with expertise in ADR mechanisms, making them better equipped to handle disputes arising from arbitration, mediation, and conciliation proceedings. Such courts would also play an essential role in overseeing the ADR process without engaging in unnecessary interference.

The establishment of ADR courts would further foster confidence in the ADR process, as businesses and individuals would feel assured that their disputes would be handled by judges who are familiar with the nuances of ADR. Judicial precedents, such as the Halliburton case in the United Kingdom, have demonstrated the positive outcomes of judicial restraint, where judges defer to arbitrators on procedural matters unless there is an extreme violation.

V. Effective Enforcement of Awards

A key aspect of ADR is ensuring that arbitral awards are enforced efficiently and effectively. One of the major issues in the Indian context is the delays in the enforcement

[25] Akash Godara, "ADR Mechanism in India and Judicial Intervention," International Journal of Law Management & Humanities, Vol. 7, Issue 3, 2024. DOI: https://doij.org/10.10000/IJLMH.117591

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of arbitral awards, especially in cases involving foreign parties. While India has made significant strides in this regard through the 2015 and 2019 amendments to the Arbitration and Conciliation Act, the enforcement process is still burdened with procedural delays.

India must adopt the pro-enforcement approach seen in jurisdictions like Australia and Singapore, where foreign arbitral awards are enforced swiftly, barring any exceptional reasons for non-enforcement. The TCL Air Conditioner (Zhongshan) Co Ltd v. Judges of the Federal Court of Australia case highlighted that Australian courts do not hesitate to enforce foreign arbitral awards unless the party seeking enforcement can prove exceptional circumstances.

VI. Encouraging Mediation and Conciliation

In addition to strengthening arbitration mechanisms, India must also promote mediation and conciliation as effective tools for dispute resolution. The Mediation Act, 2023 is a step in the right direction, but judicial enforcement of mediated settlements needs to be more robust. Courts should proactively refer disputes to mediation and ensure that mediated settlements are incorporated into consent decrees or orders.

The U.K. and Singapore have demonstrated success in this area, where courts not only refer disputes to mediation but also monitor the process and enforce settlements effectively.[26]

To ensure the success of Alternative Dispute Resolution in India, judicial intervention must strike a delicate balance between party autonomy and fairness. By implementing training programs, codifying judicial review limits, promoting institutional arbitration, and fostering specialized ADR courts, India can reduce unnecessary judicial interference and uphold the integrity of the ADR system. These reforms would align India's ADR practices with global best practices and create an environment where arbitration, mediation, and conciliation can thrive, offering a more efficient and effective alternative to traditional litigation.

6. CONCLUSION

The role of judicial intervention in Alternative Dispute Resolution (ADR) in India is multifaceted, balancing the principles of party autonomy and fairness with the judiciary's responsibility to ensure justice and uphold the rule of law. As this article has explored, judicial intervention remains a cornerstone of India's ADR framework, but there is a need for reform

[26] Krishnaja Olappamanna & Swarlata Pandey, “Court’s Intervention in Arbitration Proceedings,” International Journal of Scientific Development and Research (IJSDR), Vol. 8, Issue 9, 2023. ISSN: 2455-2631.

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to reduce unnecessary interference that can undermine the efficiency and effectiveness of ADR mechanisms, especially arbitration, mediation, and conciliation.

India's ADR landscape, though evolving, has been characterized by inconsistent judicial intervention. While Section 5 of the Arbitration and Conciliation Act, 1996 advocates for minimal judicial interference, the Indian judiciary's expansive interpretation of public policy and the grounds for setting aside arbitral awards, as seen in cases like ONGC Ltd. v. Saw Pipes Ltd., has led to frequent court involvement. This has created an environment where the finality of arbitral awards is often in question, and parties are left uncertain about the enforceability of their agreements. This is in stark contrast to international jurisdictions like the United States, United Kingdom, Australia, and Singapore, where judicial intervention is seen as a tool to support, rather than impede, ADR. These jurisdictions maintain a pro-arbitration stance, with courts intervening only in exceptional circumstances, such as fraud, lack of jurisdiction, or procedural irregularities.

The comparison between India's ADR framework and international practices reveals several critical areas for improvement. Judicial awareness and training programs for judges would ensure that courts intervene only when necessary and in a manner that respects the principles of ADR. Codifying judicial intervention limits in the same way as the U.S. Federal Arbitration Act and the Singapore International Arbitration Act would provide greater certainty and reduce unnecessary litigation. Institutional arbitration must be encouraged and developed to reduce the burden on courts, as seen in Singapore and the U.K., where specialized institutions manage arbitration proceedings, including the appointment of arbitrators and the administration of awards. Similarly, the establishment of specialized ADR courts in India, with judges trained in ADR mechanisms, would enhance the efficiency and consistency of ADR processes.

India's current reliance on ad-hoc arbitration mechanisms also calls for a shift toward institutionalized arbitration, ensuring the professional administration of disputes and reducing judicial scrutiny. Institutions like the Indian Council of Arbitration (ICA), Delhi International Arbitration Centre (DIAC), and Mumbai Centre for International Arbitration (MCIA) must be further empowered to foster a more streamlined ADR process. This would reduce delays and create a more transparent environment conducive to quicker and more predictable dispute resolution.

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Moreover, the introduction of specialized commercial courts dedicated to ADR disputes, as seen in Singapore and the U.K., would ensure that judges with the necessary expertise preside over these cases. This would help mitigate unnecessary judicial interference and promote the autonomy of arbitration and mediation proceedings. Furthermore, the enforcement of awards needs to be expedited, and courts should adopt a pro-enforcement approach, similar to jurisdictions like Australia and Singapore, where arbitral awards are enforced swiftly unless exceptional circumstances warrant otherwise.

The Mediation Act, 2023, represents a positive step towards promoting mediation as a mainstream ADR mechanism in India. However, its success hinges on effective judicial support and the consistent enforcement of mediated settlements. Indian courts must play a proactive role in referring disputes to mediation, while also ensuring the enforceability of mediated agreements. As demonstrated by the U.K. and Singapore, courts must act as facilitators, ensuring that the ADR process is followed through while minimizing direct intervention.

In conclusion, India's ADR framework, while grounded in international best practices, requires significant reforms to minimize judicial overreach and enhance the credibility and efficiency of ADR mechanisms. By focusing on judicial training, institutional arbitration, the establishment of specialized ADR courts, and a clearer codification of judicial review limits, India can align its ADR system with global standards and create a dispute resolution system that is both effective and fair. Reducing judicial intervention where unnecessary and promoting ADR mechanisms that respect party autonomy will go a long way in ensuring that India remains a competitive and reliable hub for international and domestic dispute resolution.

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