

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is placed on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

INTERNATIONAL LAW  
JOURNAL

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**WHITE BLACK  
LEGAL LAW  
JOURNAL**  
**ISSN: 2581-  
8503**

*Peer - Reviewed & Refereed Journal*

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# **ALTERNATIVE DISPUTE RESOLUTION AND** **JUDICIAL PENDENCY IN INDIA - A** **COMPREHENSIVE LEGAL RESEARCH**

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## **Introduction**

The Indian judiciary is currently facing a severe crisis of judicial backlog and delayed justice delivery. Judicial pendency has become a structural challenge, affecting access to justice and weakening public confidence in the legal system. As per recent data, more than **55 million cases are pending across Indian courts**, with a majority in subordinate courts.<sup>1</sup>

The traditional adversarial system, though foundational to Indian jurisprudence, is increasingly unable to handle the growing volume of disputes due to procedural delays, shortage of judges, and infrastructural limitations. In this context, Alternative Dispute Resolution (ADR) mechanisms—such as arbitration, mediation, conciliation, and Lok Adalats—have emerged as effective alternatives.

ADR aims to provide speedy, cost-effective, and flexible dispute resolution while reducing the burden on courts. Legislative recognition of ADR is evident in statutes like the Arbitration and Conciliation Act, 1996 and Section 89 of the Code of Civil Procedure, 1908.

## **Scope of Study**

This study examines the role of ADR mechanisms in addressing judicial pendency in India. It includes:

- Analysis of ADR methods such as arbitration, mediation, conciliation, and Lok Adalats
- Study of judicial pendency across different court levels
- Examination of statutory provisions and judicial decisions
- Evaluation of ADR effectiveness through case studies

The study is limited to the Indian legal framework and does not extensively cover international comparisons.

## **Research Problem / Research Statement**

Despite the formal integration of ADR into the legal system, judicial pendency continues to rise. The central research question is:

**“To what extent have ADR mechanisms contributed to reducing judicial pendency in India, and what challenges limit their effectiveness?”**

This question arises from the apparent gap between legislative intent and practical outcomes. While statutes such as the Arbitration and Conciliation Act, 1996 and provisions like Section 89 of the Code of Civil Procedure, 1908 mandate and encourage the use of ADR, their actual utilization and success rates vary significantly across regions and types of disputes.

The research problem also seeks to examine whether ADR mechanisms are being effectively implemented or merely treated as procedural formalities before litigation. It questions whether the institutional framework, judicial attitude, and litigant perception collectively hinder the true potential of ADR.

Furthermore, the study aims to identify structural and systemic barriers—such as lack of trained professionals, inadequate infrastructure, and inconsistent policy enforcement—that prevent ADR from functioning as a reliable alternative to traditional court processes. By addressing these concerns, the research attempts to evaluate whether ADR can realistically serve as a long-term solution to India’s judicial backlog.

## **Hypothesis**

ADR mechanisms in India have the potential to significantly reduce judicial backlog, but their impact is limited due to institutional inefficiencies, lack of awareness, and procedural constraints.

This study further hypothesizes that while legislative frameworks such as the Arbitration and Conciliation Act, 1996 and Section 89 of the Code of Civil Procedure, 1908 provide a strong foundation for ADR, their implementation remains inconsistent across jurisdictions. The effectiveness of ADR is also influenced by the willingness of parties to engage in non-adversarial dispute resolution and the capacity of institutions to deliver timely outcomes.

Additionally, it is hypothesized that judicial intervention—particularly in arbitration proceedings—dilutes the efficiency of ADR mechanisms, thereby reducing their intended advantage over traditional litigation. The absence of uniform standards, trained mediators, and robust institutional support further constrains the growth of ADR in India.

Finally, the study assumes that with proper reforms, including increased awareness, institutional strengthening, and technological integration such as Online Dispute Resolution (ODR), ADR can evolve into a primary mechanism for dispute resolution rather than merely a supplementary system to litigation.

### **Literature Review (Including Case Studies)**

Legal scholars emphasize ADR as a necessary reform to improve judicial efficiency. M.P. Jain highlights systemic delays in the judicial system and the need for alternative mechanisms.<sup>2</sup> Avtar Singh recognizes arbitration as an efficient method but notes increasing judicial interference.<sup>3</sup>

#### **Case Study 1: Lok Adalats**

Lok Adalats, established under the Legal Services Authorities Act, 1987, have emerged as one of the most effective ADR mechanisms in India. These forums are designed to provide speedy and inexpensive justice, particularly in cases involving motor accident claims, bank recovery matters, matrimonial disputes, and public utility services. A significant feature of Lok Adalats is that their awards are deemed to be decrees of a civil court and are final and binding on the parties, with no provision for appeal.

National Lok Adalats conducted periodically across the country have disposed of millions of cases in a single day, demonstrating their ability to substantially reduce judicial backlog. They also encourage settlement through compromise, thereby reducing adversarial conflict.

#### **Analysis:**

While Lok Adalats are highly effective in terms of volume disposal, concerns persist regarding the quality of justice delivered. In some instances, settlements may be driven by pressure to dispose of cases quickly rather than genuine consensus between parties. Additionally, complex disputes are often unsuitable for resolution through this mechanism, limiting its scope.

#### **Case Study 2: Mediation**

In *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, the Supreme Court provided authoritative guidelines on the implementation of Section 89 of the Code of Civil Procedure, 1908. The Court clarified the types of disputes suitable for mediation and emphasized the role of courts in referring cases to ADR mechanisms.

Mediation has since been increasingly institutionalized in India, particularly in commercial disputes and family matters. Court-annexed mediation centers have been established in several High Courts to facilitate settlement. The process is confidential, flexible, and party-driven, which enhances its appeal.

**Analysis:**

Despite its advantages, mediation in India often suffers from low settlement rates due to lack of awareness, reluctance of parties, and inadequate training of mediators. In many cases, it is treated as a mandatory procedural step rather than a genuine effort at dispute resolution, thereby limiting its effectiveness.

**Case Study 3: Arbitration**

In *ONGC Ltd. v. Saw Pipes Ltd.*, the Supreme Court expanded the scope of judicial intervention by allowing arbitral awards to be challenged on the ground of “public policy.” This judgment significantly impacted arbitration in India by increasing court interference in arbitral proceedings.

Although arbitration is intended to provide a speedy and binding resolution, frequent challenges to arbitral awards and prolonged court proceedings have undermined its efficiency. Even subsequent legislative amendments aimed at minimizing judicial intervention have not entirely resolved these issues.

**Analysis:**

Excessive judicial scrutiny and procedural delays have diluted the core objective of arbitration. Instead of functioning as a swift alternative, arbitration in India often mirrors traditional litigation in terms of time and cost, thereby reducing its effectiveness as an ADR mechanism.

**Case Study 4: Matrimonial Disputes**

In *K. Srinivas Rao v. D.A. Deepa*, the Supreme Court emphasized the importance of mediation in matrimonial disputes. The Court observed that matrimonial conflicts require a sensitive and conciliatory approach rather than adversarial litigation.

Mediation centers attached to family courts have played a crucial role in resolving disputes related to divorce, child custody, and maintenance. These mechanisms aim to preserve relationships wherever possible and reduce emotional and financial strain on the parties.

### **Analysis:**

ADR has proven particularly effective in matrimonial disputes, where preserving relationships and ensuring amicable settlements are essential. However, its success depends heavily on the willingness of parties to cooperate and the skill of mediators in handling sensitive issues.

## **Judicial Pendency in India**

Judicial pendency remains a major challenge:

- Over **55 million pending cases**
- Around **85% cases in subordinate courts**<sup>1</sup>
- Significant delays extending to decades

### **Causes of Pendency**

- Shortage of judges<sup>8</sup>
- Procedural delays and adjournments
- Government as the largest litigant<sup>9</sup>
- Inadequate infrastructure

### **Impact**

- Delay in justice delivery
- Increased litigation costs
- Reduced public trust
- Economic inefficiency

The Law Commission of India has repeatedly stressed the need for judicial reforms and increased capacity.<sup>10</sup>

## **Role of ADR in Reducing Pendency**

ADR mechanisms aim to reduce court burden by diverting disputes. Section 89 CPC mandates courts to encourage ADR.

In *Salem Advocate Bar Association v. Union of India*, the Supreme Court upheld ADR provisions and emphasized their importance.<sup>11</sup>

### **Challenges in ADR**

- Lack of awareness among litigants

- Cultural preference for litigation
- Institutional weaknesses
- Judicial interference in arbitration
- Low settlement rates in mediation

Thus, ADR acts more as a supplementary mechanism rather than a complete solution.

## **Conclusion**

ADR mechanisms are an essential component of India's justice system and offer significant potential for reducing judicial pendency. However, their current impact remains limited due to structural and procedural challenges.

To enhance effectiveness, India must:

- Strengthen ADR institutions
- Promote awareness and accessibility
- Reduce judicial interference
- Improve infrastructure and digital systems

A combined approach integrating ADR with judicial reforms is necessary to ensure timely and effective justice delivery.

## **Footnotes**

1. National Judicial Data Grid (NJDG), Case Pendency Statistics (2026).
2. M.P. Jain, *Indian Constitutional Law* (LexisNexis).
3. Avtar Singh, *Law of Arbitration and Conciliation*.
4. Legal Services Authorities Act, 1987.
5. *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.
6. *ONGC Ltd. v. Saw Pipes Ltd.*, (2003) 5 SCC 705.
7. *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226.
8. Ministry of Law and Justice, Government of India, Annual Report.
9. PRS Legislative Research, Judicial Pendency Report.
10. Law Commission of India, Report No. 245.
11. *Salem Advocate Bar Association v. Union of India*, (2005) 6 SCC 344.

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- PRS Legislative Research
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