



Be Mains Ready

Q. Explain the various types of Alternative Dispute Resolution mechanisms available in India. What advantages do they offer over the traditional methods of settling disputes?

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Approach / Explanation / Answer

- Briefly introduce Alternative Dispute Resolution mechanisms.
- Discuss various types of Alternative Dispute Resolution mechanisms in providing timely justice.
- Suggest measures for the functioning of smooth ADR mechanisms.

Answer

Alternative Dispute Resolution (ADR) is a term used to describe several different modes of resolving legal disputes. It is experienced by the business world as well as common men that it is impracticable for many individuals to file lawsuits and get timely justice.

The Courts are backlogged with pending cases resulting in a delay for the parties to have their cases heard and decided. To solve this problem of delayed justice, ADR Mechanism has been developed.

Various types of Alternative Dispute Resolution mechanisms available in India

- **Arbitration** - is a procedure in which the dispute is submitted to an arbitral tribunal which makes a decision on the dispute that is binding on the parties.
- **Fast Track Arbitration** - is a time-bound arbitration, with stricter rules of procedure, which do not allow any laxity for extensions of time, and the resultant delays and the reduced span of time make it more cost-effective.
- **Lok Adalats** - are being regularly organized primarily by the State Legal Aid and the Advice Boards with the help of District Legal Aid and Advice Committees for faster disposal of litigations
- **Conciliation** - is an unstructured method of dispute resolution in which a neutral person meets with the parties to a dispute and makes an attempt to resolve the issue.
- **Negotiation** - refers to self-counselling between the parties to resolve their dispute which does not have any statutory recognition in India.
- **Mediation** - is a process in which the mediator, an external person, neutral to the dispute, works with the parties to find a solution which is acceptable to all of them.

Advantages of Alternative Dispute Resolution

- The parties have the freedom to choose their own arbitrator, mediator or conciliator which means

that they can select an expert who has experience in the field of the dispute rather than just someone who has technical and procedural know-how.

- In an arbitration process, the parties have more flexibility to choose the procedural and discovery rules that may apply to their dispute. This means that they can choose industry standards, domestic laws or even foreign laws to be governed by.
- Unlike civil law countries where cases are decided by a jury which can be partial, unpredictable, and emotionally inclined, the process of ADR does not involve a jury.
- ADR processes are cost-effective because there is no need to hire expert witnesses or attorneys and the process is quicker which reduces the time, thereby avoiding long-drawn litigation costs.
- It gives people an involvement in the process of resolving their disputes that is not possible in a public, formal and adversarial justice system perceived to be dominated by the abstruse procedure and recondite language of the law.

Suggestions

- Creation of awareness and popularizing the methods is the first thing to be done. NGOs and the media have a prominent role to play in this regard.
- For Court- annexed mediation and conciliation, necessary personnel and infrastructure shall be needed for which government funding is necessary.
- Training programmes on the ADR mechanism are of vital importance. State-level judicial academies can assume the role of facilitator or active doer for that purpose

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