CHAPTER 3

ARBITRATION, TRIBUNAL ADJUNCTION, AND ALTERNATIVE DISPUTE RESOLUTION

INTRODUCTION

The resolution of disputes is a critical component of any legal system, and India employs both adversarial and inquisitorial methods to achieve justice. While the adversarial system relies on opposing parties to present their cases, the inquisitorial approach involves an active role for the judge in investigating the facts. Recognising the limitations of traditional litigation, India has embraced Alternative Dispute Resolution (ADR) mechanisms, which offer more flexible, efficient, and cost-effective solutions. ADR encompasses various methods, including arbitration, administrative tribunals, mediation, and conciliation, which facilitate the amicable resolution of disputes outside the courtroom. Additionally, institutions such as Lok Adalats provide a platform for resolving disputes at the grassroots level, while the roles of Ombudsman, Lokpal, and Lokayukta ensure accountability and transparency in public service. This chapter explores these diverse avenues, highlighting their significance in fostering a more accessible and responsive justice system.

TOPICS COVERED

1. Adversarial and Inquisitorial Systems
2. Introduction to Alternative Dispute Resolution
3. Types of ADR
4. Arbitration, Administrative, Tribunals
5. Mediation and Conciliation
6. Lok Adalats
7. Ombudsman
8. Lokpal and Lokayukta

ADVERSARIAL AND INQUISITORIAL SYSTEMS: A COMPARATIVE ANALYSIS

Legal systems around the world can be broadly classified into two primary models: **Adversarial** and **Inquisitorial**. While both systems share the common goal of dispensing justice, they differ significantly in their methods of adjudication and justice delivery. This distinction is crucial for understanding how justice is administered in various jurisdictions.

DEFINITIONS AND KEY DIFFERENCES

The **Adversarial system** is characterised by **the active involvement of the disputing parties in building and presenting their cases**, where each side gathers evidence and supports their claims through legal representation. Lawyers play a pivotal role in this model, often engaging in **cross-examination** to scrutinise the credibility of witnesses and evidence. The judge takes on a more passive role, acting primarily as an **impartial decision-maker**, whose responsibility is to evaluate the evidence presented by both parties.

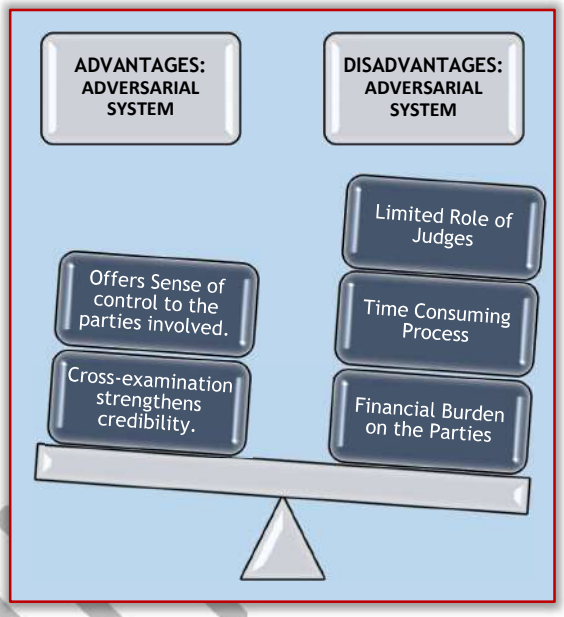
In contrast, the **Inquisitorial system places the judge in an active role**, where they lead the investigation, determine the facts, and direct how evidence should be presented. The judge is central to the proceedings, ensuring procedural efficiency by preventing prolonged trials or

delays. This model is often described as **interventionist** or **investigative**, due to the proactive role of the judge in uncovering the truth.

ADVANTAGES AND DISADVANTAGES OF THE ADVERSARIAL SYSTEM

Advantages

- **Cross-examination** helps verify the credibility of witnesses.
- The system offers a sense of **control** to the parties involved, making them more likely to accept the outcome.



Disadvantages

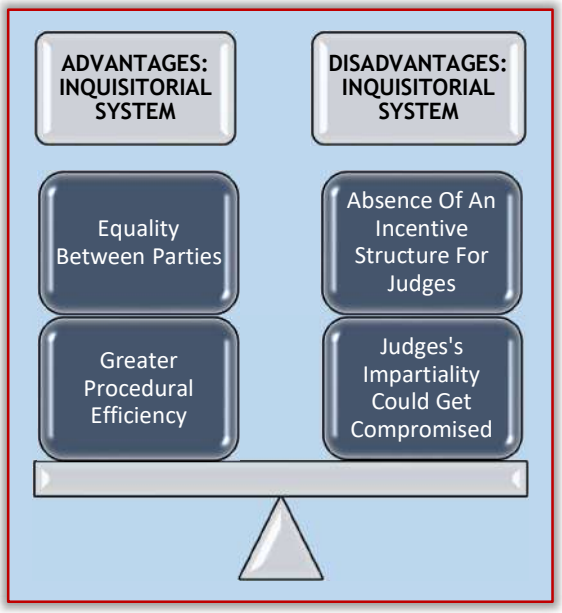
- The **financial burden** falls on the parties, creating inequality; wealthier litigants can afford more competent lawyers and better resources.
- The process can be **time-consuming**, with procedural formalities causing delays.
- Judges have a **limited role** in truth-finding, relying solely on the evidence presented.

A famous example from **Peter Murphy's *Practical Guide to Evidence*** highlights this limitation: a judge in an English adversarial court, frustrated by conflicting witness accounts, asked, **"Am I never to hear the truth?" The lawyer's response was, "No, my lord, merely the evidence."**

ADVANTAGES AND DISADVANTAGES OF THE INQUISITORIAL SYSTEM

Advantages

- Greater **procedural efficiency** due to the active role of judges in managing the trial and preventing delays.
- **Equality** between parties is preserved, as even wealthier or more resourceful litigants cannot unduly influence the outcome.



Disadvantages

- Judges may struggle to remain **impartial** when they also function as investigators.
- The absence of an **incentive structure** for judges could result in a less thorough investigation of facts.

ROLES IN EACH SYSTEM: In the **Adversarial system**, the parties, with the assistance of their lawyers, develop their own case theories, gather evidence, and engage in cross-examination. Lawyers take a **proactive role**, while the judge's responsibility is limited to evaluating the

presented evidence. On the other hand, in the **Inquisitorial system**, the judge directs the proceedings, determines the facts, and decides the manner in which evidence is presented. The judge's role is **central and investigative**, while less emphasis is placed on cross-examination by lawyers.

Aspect	Adversarial System	Inquisitorial System
Role of Judge	Passive; evaluates evidence presented	Active; directs investigation and evidence
Role of Lawyers	Proactive; leads cross-examination and evidence gathering	Limited; follows judge's directives on evidence
Control Over Process	Controlled by the parties	Controlled by the judge
Efficiency	Can be time-consuming due to procedural delays	More efficient; judge prevents unnecessary delays
Impartiality	Judge remains impartial	Judge's investigative role may impact neutrality
Equality Among Parties	May favour wealthier parties with better resources	Ensures equality, preventing undue influence
Countries Using System	Common law countries (UK, US, Australia, India)	Civil law countries (continental Europe)

INTRODUCTION TO ALTERNATIVE DISPUTE RESOLUTION (ADR)

MEANING AND SCOPE

Alternative Dispute Resolution (ADR) refers to the use of **non-adversarial techniques** for settling legal disputes, offering a different approach from the traditional court system. It encompasses a variety of methods aimed at resolving disputes outside formal judicial processes, focusing on collaboration rather than confrontation.

Essentially, arbitration is a dispute resolution process originating from **Roman law**, characterised by its **less adversarial, flexible** nature compared to formal courts. It allows parties to resolve disputes in a private forum by selecting a neutral arbitrator, whose decision is binding.

Historically, the **ADR system in India** predates the introduction of the

adversarial model, which was established during the **British colonial period**. The Indian judiciary, influenced by **English courts and legal systems**, adopted a formal structure designed to standardise legal practices across the country. However, before the British legal system was introduced, India had its own native forms of **ADR**.

During the **Vedic age**, India saw the rise of **specialised tribunals** such as:

- **Kula**: For family, community, and caste disputes.
- **Shreni**: For internal disputes within artisan and business groups.
- **Puga**: For trade-related disputes and commerce matters.

These institutions primarily used **interest-based negotiations**, where a **neutral third party** mediated disputes by understanding the parties' needs and concerns. In addition, **Panchayats** (people's courts) played a crucial role in resolving disputes in rural areas, making ADR a long-standing tradition in Indian society.

In the **modern era**, **sophisticated ADR techniques** have evolved, building on these traditional methods to offer more structured alternatives to court litigation.

INTERESTING FACT

In ancient times, the practice of resolving disputes outside formal legal systems, through submission to private individuals, was well established. This method was formally recognised under Roman law as Compromysm (meaning compromise). The practice of arbitration was particularly valued in civil law systems across the continent, including by the Greeks, who gave significant importance to it. In contrast, English law exhibited mixed responses. Initially, Common Law Courts were resistant to the idea of settling disputes outside the judiciary, but gradually, their stance shifted to a more accepting position.

Source: Russell on Arbitration, 22nd Edition, 2003, p. 652, para 8-002.

BENEFITS OF ADR: ADR offers several advantages over conventional judicial procedures:

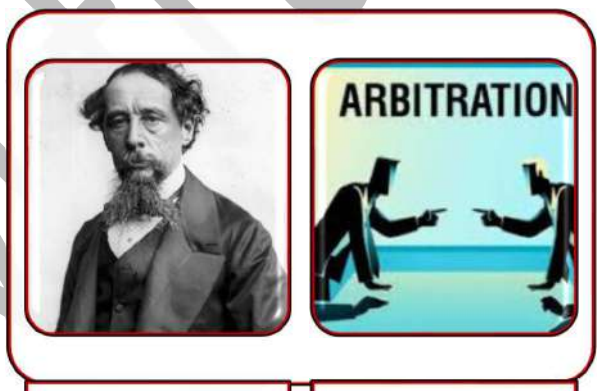
1. **Speed and Informality**: ADR methods are generally faster and more informal than traditional court proceedings, helping resolve disputes in a **timely and efficient** manner.
2. **Cost-Effective**: ADR is a **cheaper mode of justice**, reducing the need for prolonged litigation, legal fees, and associated costs.
3. **Convenience and Flexibility**: Parties can choose the **time, place, and procedure** for resolving their disputes, allowing for greater **control** over the process. This flexibility is particularly beneficial for **technical disputes**, where the parties can opt for experts in the relevant field, such as engineers in construction disputes, instead of lawyers.
4. **Reduction in Court Backlog**: The adoption of ADR helps reduce the burden on courts, which face challenges such as:
    - **Inadequate numbers of courts and judges** to handle the growing volume of cases.
    - **Increased litigation** due to population growth, complex laws, and outdated statutes.
    - **Rising litigation costs**, including court fees, lawyer fees, and incidental expenses.
    - **Delays in case disposal**, leading to significant backlogs in all levels of courts.

As a result of these advantages, ADR has become a preferred option for many disputants, providing **quicker and more accessible justice** while alleviating the pressure on the traditional court system.

CONVENTIONAL LITIGATION VS. ADR

Aspect	Conventional Litigation	Alternative Dispute Resolution (ADR)
Process	Formal, based on rigid procedural rules	Informal, flexible procedures
Time	Time-consuming, with prolonged trials	Faster resolution, minimal procedural delays
Cost	Expensive due to court fees and legal representation	Cost-effective, lower fees and expenses
Control	Court controls the process	Parties have control over the time, place, and experts
Nature of Dispute	General disputes handled by judges	Technical disputes can be handled by field experts
Role of Lawyers	Lawyers play a central role	Disputes can be resolved by non-lawyers (e.g., engineers)
Court Backlogs	Contributes to high pendency in courts	Helps reduce the burden on courts

Given the numerous benefits ADR offers, including **efficiency, affordability, and flexibility**, it has emerged as a **successful alternative** to conventional court trials in India. ADR has also played a significant role in restoring the public's faith in the justice system by offering a faster, more accessible mode of dispute resolution. As the Indian judiciary faces mounting challenges, the **growth of the ADR movement** is a critical development for the future of justice delivery.



Any settlement before the estate was exhausted would have provided greater benefit to the parties than interminable litigation."
Excerpt from Jarndyce v. Jarndyce *(A fictitious legal case in **Charles Dickens' novel, The Bleak House**)*

INTERESTING FACT
The Arbitration and Conciliation Act, 1996 repealed several earlier arbitration statutes, including:
The Arbitration Act, 1940
The Arbitration (Protocol and Convention) Act, 1937
The Foreign Awards (Recognition and Enforcement) Act, 1961
As a result, arbitration has been an integral part of the Indian legal system for many years.

TYPES OF ADR: ARBITRATION

1. **Domestic Arbitration**: Occurs when all parties are Indian, and the arbitration takes place in India under **Indian legal rules.**
2. **Foreign Arbitration**: Conducted outside India with the **award enforced in India.**
3. **Ad-hoc Arbitration**: Parties govern the arbitration without institutional involvement. This can be **domestic or international.**
4. **Institutional Arbitration**: Conducted under the guidance of an arbitration institution, which selects the arbitrator and governs the process. Examples include **The London Chamber of International Arbitration (LCIA).**
5. **Statutory Arbitration**: Arbitration imposed by law, such as under the **Defence of India Act, 1971**, mandating arbitration for disputes under that statute.

6. **International Commercial Arbitration**: Involves at least one party from outside India. Defined under **Section 2(1)(f) of the Arbitration and Conciliation Act, 1996**, it covers disputes involving foreign corporations or governments.

PROCESS OF ARBITRATION: There are multiple aspects that constitutes the process of arbitration like initiation, parties selecting the arbitrator, ensuring confidentiality of the proceedings and bindingness of the decision etc.

1. **Initiation**: Arbitration can be initiated either through an **Arbitration Agreement** between the parties or by **Court Referral**.
2. **Selection of Arbitrator**: Parties choose a qualified **arbitrator** who acts as a neutral expert.
3. **Confidentiality**: Arbitration proceedings are **confidential**, unlike public court trials, protecting **business secrets** and **corporate reputations**.
4. **Arbitral Award**: The arbitrator's decision is called an **arbitral award**, which is **binding** on the parties. It functions similarly to a **court judgment**, but it does not set a **precedent** for future cases.
5. **Interim Measures**: Arbitrators can issue **interim measures** to provide temporary relief while the case is ongoing, similar to temporary orders in court.

COMPARATIVE CHART: COURT LITIGATION VS. ARBITRATION

ASPECT	COURT LITIGATION	ARBITRATION
Formality	Formal, with strict procedural rules	Flexible, with parties choosing the process
Confidentiality	Public proceedings	Confidential, protects business secrets
Time	Longer, may face delays	Generally faster
Control over Process	Court determines process and judge	Parties have control over the selection of arbitrator and rules
Precedential Value	Judgments set precedent	No precedential value for future arbitrations
Interim Measures	Granted by a judge	Arbitrator can also grant interim measures
Binding Decision	Court judgment is binding	Arbitral award is binding but cannot set future precedent

Arbitration offers a **private, flexible, and confidential** mode of resolving disputes, making it particularly attractive for commercial disputes where **time, confidentiality, and control** are critical. However, it differs from court litigation in its lack of **precedent** and formal structure, allowing arbitrators to prioritise fairness and equity over strict legal frameworks.

OVERVIEW OF LAWS ON ARBITRATION IN INDIA

1. **The Arbitration and Conciliation Act, 1996:** The **Arbitration and Conciliation Act of 1996** is the primary legislation that governs the process of arbitration in India. This Act provides a comprehensive and codified framework for arbitration, designed to ensure **fairness, efficiency, and the enforceability** of arbitral awards.
2. **Influence of International Law:** The 1996 Act is largely influenced by global judicial reforms and international conflict management practices. A significant contributor to its structure is the **UNCITRAL (United Nations Commission on International Trade Law) Model Law on International Commercial Arbitration** of 1985.

3. **The UNCITRAL Model Law:** The **UNCITRAL Model Law** was established to bring uniformity in the legal and procedural aspects of international arbitration across countries. Following the adoption of this model law, the **United Nations General Assembly** recommended that all countries incorporate its principles into their legal systems to standardise international arbitration practices.

INDIA'S ADOPTION: The **Arbitration and Conciliation Act of 1996** was modelled on the **UNCITRAL Model Law** to align India's arbitration framework with international standards. This alignment helps ensure that India remains a competitive and attractive jurisdiction for international commercial arbitration, while also addressing domestic arbitration disputes in a structured and internationally recognised manner.

KEY ASPECTS OF THE ARBITRATION AND CONCILIATION ACT, 1996:

- **Domestic and International Arbitration**: It applies to both domestic and international commercial arbitration.
- **Enforceability of Awards**: Arbitral awards are binding and enforceable, similar to court judgments.
- **Neutrality**: The law encourages neutrality, providing parties with the ability to choose neutral venues, arbitrators, and procedures.
- **Confidentiality**: Ensures the confidentiality of arbitration proceedings, a feature critical for commercial entities.

The **Arbitration and Conciliation Act, 1996** thus plays a vital role in making arbitration in India both **globally recognised** and **efficient** for resolving commercial disputes. This act has marked the beginning of a new era in resolving both domestic and commercial legal disputes. In this context, the **Supreme Court of India** has reinforced that the Act was established to appeal to the **international mercantile community**. Consequently, the Supreme Court has stressed that the Act should be interpreted and applied with the commercial context of the dispute in consideration **(Konkan Railways Corp. Ltd. v. Mehul Construction Co. (2000) 7 SCC 201).**

Term	Definition
Arbitration Agreement	A formal agreement in which parties' consent to resolve current or future disputes through arbitration, which can be made in writing or via other communication methods.
Court Referral to Arbitration	When one party approaches the court despite an existing arbitration agreement, the other party can request the court to refer the dispute back to arbitration.
Statement of Claim	The initial documents submitted by claimants outlining the issues to be addressed in the arbitration process.
Counter-Claim/Defence	The response provided by the respondent to the claim made by the claimant.
Setting Aside of an Arbitral Award	An arbitral award can be annulled by the courts under specific conditions, including incapacity of a party, improper appointment of an arbitrator, bias, or violation of public policy.

ADMINISTRATIVE TRIBUNALS

The **42nd Amendment Act of 1976** introduced **Articles 323-A** and **323-B** into the **Constitution of India**, granting the Parliament the authority to establish tribunals for the resolution of specialised disputes. The types of disputes specified in the Constitution include:

1. Disputes concerning the service conditions of government officers.
2. Issues related to tax collection and enforcement.
3. Industrial and labour disputes.
4. Matters regarding land reforms.
5. Election-related disputes.
6. Urban property ceilings.
7. The production, procurement, supply, and distribution of foodstuffs or essential goods.

This amendment marked the beginning of the "**tribunalisation of the Indian judiciary.**" Following this, the **Administrative Tribunals Act of 1985** was enacted, leading to the establishment of the **Central Administrative Tribunal (CAT)** and various **State Administrative Tribunals**. The CAT was formed under the **1985 Act** and is responsible for adjudicating service-related matters involving its employees. Appeals against the decisions of these administrative tribunals are directed to the **Division Bench** of the respective **High Court**.

One of the advantages of these **tribunals is their procedural flexibility**, which enhances their efficiency. For instance, the **Administrative Tribunals Act, 1985** permits individuals to represent themselves directly before the tribunals. The overarching aim of these tribunals is to provide **speedy and cost-effective justice** to litigants. Given that the government is often a significant party in litigation and that government-related cases have led to delays in the judicial process, these tribunals have played a vital role in alleviating the burden on traditional courts over the past two decades. However, it is essential to note that these tribunals are not intended to replace the courts. This principle was affirmed by a seven-judge bench of the Supreme Court in the **L Chandra Kumar case (JT 1997 (3) SC 589)**, which clarified that tribunals do not undermine the exclusive jurisdiction of the courts, and their decisions are subject to review by the Division Bench of the High Courts.

It is also worth mentioning that administrative and state tribunals are not a novel concept within the Indian legal and political landscape; they are well-established in various countries, including those in the **European Union** and the **United States**.

KEY POINTS ON ADMINISTRATIVE TRIBUNALS

ASPECT	DETAILS
Constitutional Foundation	Articles 323-A and 323-B introduced by the **42nd Amendment Act, 1976**.
Types of Disputes Covered	• Service Conditions of Government Officers • Tax Collection and Enforcement • Industrial and Labour Disputes • Land Reform Matters • Election Disputes • Urban Property Ceilings

	• Foodstuff and Essential Goods Distribution
Establishment of CAT	Formed under the **Administrative Tribunals Act, 1985** to adjudicate service-related matters.
Appeal Process	Appeals against tribunal decisions can be made to the **Division Bench** of the relevant High Court.
Efficiency	Procedural flexibility allows for direct representation before the tribunals, contributing to speedier resolutions.
Objective	To provide **speedy and inexpensive justice** to litigants, alleviating the burden on traditional courts.
Legal Precedent	Clarified in **L Chandra Kumar case** that tribunals do not replace courts, and their decisions are reviewable.
Global Context	Similar tribunals exist in countries such as those in the **European Union** and the **United States**.

This format presents the information in a clear and structured manner, highlighting the essential details about administrative tribunals.

MEDIATION: DEFINITION AND TYPES

Mediation is a form of alternative dispute resolution (ADR) wherein the parties involved engage a neutral third party to facilitate the process, assisting them in reaching a **voluntary and mutually acceptable agreement**. This method is based on the **voluntary participation** of the parties and is characterised by its **flexibility** and **informality**.

Mediation is considered **more formal than negotiation** but is **less formal than arbitration or litigation**. It offers several advantages, such as being **faster**, **less expensive**, and **confidential**, particularly when compared to traditional court proceedings. A significant difference between mediation and arbitration is that the outcomes of mediation are **non-binding**, meaning they do not hold the same legal weight as an arbitral award. However, the agreements reached through mediation can be **transformed into legally binding contracts**, thereby creating obligations for the parties who sign them.

INTERESTING FACT

CAT Structure: Today, the **Central Administrative Tribunal (CAT)** has **17 regular benches**, with **15** operating at the principal seats of High Courts, while **two** are located in **Jaipur** and **Lucknow**.

Composition: The tribunal is composed of a **Chairman**, a **Vice-Chairman**, and various **Members**.

Expertise: Members are drawn from both **judicial** and **administrative** backgrounds, ensuring a blend of expertise in legal and administrative matters.

***Source**:http://www.archive.india.gov.in/knowindia/profile.php?id=196*

TYPES OF MEDIATION: Mediation can be categorised into several types, each with distinct characteristics and approaches:

1. **Evaluative Mediation**: This type focuses on assessing the parties' cases and guiding them towards a settlement. When both parties agree, the mediator shares insights about what might constitute a fair or reasonable settlement. The evaluative mediator plays an **advisory role**, analysing the strengths and weaknesses of each side's arguments and predicting potential court outcomes.

2. **Facilitative Mediation**: Unlike evaluative mediation, facilitative mediators do not evaluate cases or steer parties towards specific settlements. Instead, they act as **guardians of the process**, facilitating discussions while allowing the parties to control the topics and resolutions. The facilitative mediator provides structure and an agenda for the discussion, focusing on helping the parties reach a resolution.

3. **Transformative Mediation**: This approach emphasises **empowerment** and **recognition** shifts, encouraging parties to deliberate, make decisions, and understand different perspectives. A transformative mediator focuses on communication, identifying opportunities for empowerment and recognition as they arise during discussions, and responding in ways that enable parties to decide how to proceed.

4. **Mediation with Arbitration**: This hybrid approach combines mediation with binding arbitration, starting as a standard mediation process. If mediation does not succeed, the mediator transitions into the role of an arbiter. This method is particularly suitable for civil matters where **rules of evidence** or **jurisdiction** are not in contention. However, it raises ethical concerns, as the mediator's potential dual role might distort the mediation process. To mitigate this, using separate individuals for mediation and arbitration is recommended.

5. **Online Mediation**: This type utilises online technology to facilitate mediation, enabling parties to access mediators and communicate despite **geographic distances**, disabilities, or other barriers that prevent face-to-face meetings.

PROCESS OF MEDIATION

The individual facilitating the mediation process is referred to as the **mediator**. Unlike formal judicial proceedings, mediation does not adhere to a standardised set of rules, although mediators typically establish guidelines at the beginning of the process. The success of mediation is influenced not only by the parties' willingness to engage but also by the **mediator's expertise**. There are no universally accepted licensing requirements for mediators, and certification regulations can vary by state.

MEDIATION CAN BE INITIATED IN THREE PRIMARY WAYS:

1. **Pre-Litigation Mediation**: Parties may agree to resolve their disputes through a pre-existing mediation agreement without commencing formal legal action.
2. **Court Referral**: Parties may decide to mediate at the onset of formal court proceedings, commonly referred to as court referrals.
3. **Post-Trial Mediation**: Mediation may also occur after court proceedings have commenced or even at the appellate stage.

Under Indian law, mediation is particularly effective for various types of disputes, including:

- **Contractual disputes** (such as monetary claims)
- **Relationship-based disputes** (like matrimonial or partnership issues)
- **Disputes requiring ongoing relationships** (e.g., neighbourly easement rights)
- **Consumer disputes**

For instance, if a suburban homeowner faces an issue with their neighbour's excessively bright driveway lights shining into their bedroom, the formal legal system might not provide a viable solution. Such a dispute can be resolved through mediation, allowing participants to discuss and address underlying issues. This could reveal, for example, that the neighbour installed the lights to deter the homeowner's dog from entering their yard or due to encroachment by the homeowner's tree. Mediation thus provides a platform for discussing and resolving various grievances, ultimately fostering a sustainable resolution.

The **Supreme Court of India** has clarified the scope of mediation in its ruling in ***Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24**. The court specified that certain cases, including representative suits, election disputes, criminal offenses, and cases involving specific groups (such as minors or mentally challenged individuals), are excluded from the purview of mediation.

CONCILIATION

Conciliation is a dispute resolution process akin to mediation, where parties voluntarily appoint a neutral third party to assist in resolving their disagreements. The **primary distinction** between mediation and conciliation lies in the role of this neutral third party. A **mediator** primarily facilitates discussions and provides a platform for the parties to arrive at a mutually agreeable solution. In contrast, a **conciliator** takes on a more active role, often suggesting potential solutions to help resolve the parties' claims and disputes.

Laws on Mediation and Conciliation: Both mediation and conciliation are governed by **Section 89**, which was introduced through the **2002 amendment** to the **Civil Procedure Code, 1908** (CPC). This Code serves as the main legal framework for managing procedures and practices related to civil disputes. Notably, Section 89 focuses exclusively on **court-referred mediation**, leaving **pre-litigation mediation** without specific legal governance in India. Conciliation, while mentioned in Section 89 of the CPC, also finds its procedural guidelines detailed in the **Arbitration & Conciliation Act, 1996**. Additionally, the **Industrial Disputes Act, 1947** recognizes conciliation as a viable method for resolving disputes in the labour sector.

LOK ADALAT

The concept of **Lok Adalat**, or "People's Court," represents a significant innovation in Indian legal jurisprudence. As the name implies, **"Lok" means "people**," while "**Adalat" translates to "court."** This institution has its roots in India's rich tradition of grassroots dispute resolution.

Historically, disputes were often referred to **panchayats**, which operated at the village level. These panchayats effectively resolved conflicts through arbitration, serving as a valuable alternative to formal litigation. The notion of resolving disputes via mediation, negotiation, or arbitration is encapsulated in the

decision-making process of the **Nyaya-Panchayat**, which has been institutionalized within the framework of Lok Adalat.

Lok Adalat involves the participation of individuals who are directly or indirectly affected by the dispute resolution process. The emergence of Lok Adalat was part of a broader strategy aimed at alleviating the heavy burden of pending cases in the courts and providing timely relief to litigants awaiting justice. This system enhances access to justice by offering a more efficient and less formal avenue for dispute resolution.

MODERN INSTITUTION OF LOK ADALAT

The contemporary **Lok Adalat** is overseen by a presiding officer, who is either a sitting or retired judicial officer, referred to as the chairman. Typically, this panel includes two additional members: a lawyer and a social worker. Lok Adalat has the jurisdiction to resolve any matter that is pending in court, as well as disputes that have not yet been formally initiated in any legal setting, including both civil matters and non-compoundable criminal cases.

INTERESTING FACT
The first Lok Adalat took place on March 14, 1982, in Junagarh, Gujarat.
Lok Adalats have effectively resolved a wide range of claims, including motor accident claims, matrimonial/family disputes, labour disputes, and issues related to public services such as telephone, electricity, and bank recovery cases.

SALIENT FEATURES OF LOK ADALAT:

- **Participation:** Involvement of all affected parties in the resolution process.
- **Accommodation:** Flexibility in addressing the needs and concerns of the parties.
- **Fairness:** Ensuring a just and unbiased approach to dispute resolution.
- **Voluntariness:** Participation in the process is entirely voluntary.
- **Neighbourliness:** Fostering a sense of community and understanding among disputing parties.
- **Transparency:** Maintaining openness in proceedings and decisions.
- **Efficiency:** Resolving disputes in a timely and effective manner.
- **Lack of Animosity:** Promoting a non-confrontational atmosphere for conflict resolution.

BENEFITS OF LOK ADALAT:

- **No Court Fees:** There are no fees associated with filing cases in Lok Adalat. If a case has already been initiated in a regular court, any fees paid will be refunded upon resolution in Lok Adalat.
- **Informal Process:** The strict application of procedural laws is relaxed, allowing disputing parties to engage directly with the judges.
- **Binding Decisions:** The outcomes of Lok Adalat are binding on all parties involved, and its orders can be enforced through legal channels.

OVERVIEW OF LAWS ON LOK ADALAT

Following Article 39-A of the Constitution of India, the Legal Services Authorities Act, 1987 was enacted by Parliament to facilitate dispute resolution through Lok Adalat. This Act establishes

legal services authorities aimed at providing free legal aid and proficient legal services to the weaker sections of society.

In 2002, the Act underwent amendments to create permanent Lok Adalats specifically for public utility services.

Additionally, the National Legal Services Authority (NALSA), a statutory body formed under the National Legal Services Authorities Act, 1987, is tasked with developing policies and principles for delivering legal services as stipulated in the Act. NALSA focuses on providing legal services, legal aid, and ensuring speedy justice through Lok Adalats. It also allocates funds and grants to implement legal aid schemes, conduct literacy camps, and organise various programs. Moreover, State Legal Services Authorities and District Legal Services Authorities have been established in every state capital and district, respectively, to further support these initiatives.

OMBUDSMAN: MEANING AND ROLE

The term **Ombudsman** originates from indigenous Swedish, Danish, and Norwegian languages, derived from the word ***umbodsmar***, which translates to "representative." An ombudsman can be appointed by a **legislature**, **executive**, or an **organisation**. The primary responsibilities of an ombudsman include investigating complaints and seeking resolutions, often through recommendations (which may or may not be binding) or mediation.

"I had learnt the true practice of law. I had learnt to find out the better side of human nature, and to enter men's heart. I realised that the true function of a lawyer was to unite parties riven asunder. The lesson was so indelibly burnt into me that the large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby- not even money, certainly not my soul" (Gandhi).

In this context, lawyers serve as social engineers, fostering harmony and resolving conflicts through understanding and compassion. Alternative Dispute Resolution (ADR) techniques, like mediation and Lok Adalat, facilitate this process by encouraging parties to reach amicable settlements outside traditional litigation, thereby promoting justice and reducing court congestion.

Ombudsmen also aim to identify **systemic issues** that lead to inadequate service or violations of individuals' rights. At the **national level**, most ombudsmen have broad authority to address matters within the entire public sector and sometimes aspects of the private sector, such as contracted service providers. The options for further redress typically depend on the country's laws and may include **financial compensation**.

In India, the government has established several ombudsmen, sometimes referred to as **Chief Vigilance Officers (CVO)**, to address grievances and complaints from individuals in sectors such as banking and insurance, which involve both private and public entities. For instance, the **Central Vigilance Commission (CVC)** was created following the recommendations of the **Santhanam Committee (1962-1964)**. The CVC functions as the apex vigilance institution, operating independently of executive control, and oversees all vigilance activities within the Central Government. It also advises various authorities in Central Government organisations on planning, executing, reviewing, and reforming their vigilance efforts.

LOKPAL AND LOKAYUKTA: MEANING AND ORIGIN

A **Lokpal**, which translates to "caretaker of people," functions as an ombudsman in India, while a **Lokayukta**, meaning "appointed by the

people," serves a similar anti-corruption role at the state level. The formal recognition of the Lokpal and Lokayukta institutions was established through **The Lokpal and Lokayukta Act, 2013**. This legislation aims to tackle acts of bribery and corruption among public servants, a term broadly defined within the Act.

The Act extends its reach to public servants both within and outside India and includes current and former Prime Ministers of India, except in matters related to international relations, national security, public order, atomic energy, and space. An inquiry into such matters requires approval from at least two-thirds of Lokpal members. Moreover, inquiries are conducted in camera, and if the Lokpal determines that a complaint lacks merit, the inquiry records remain confidential and inaccessible to the public.

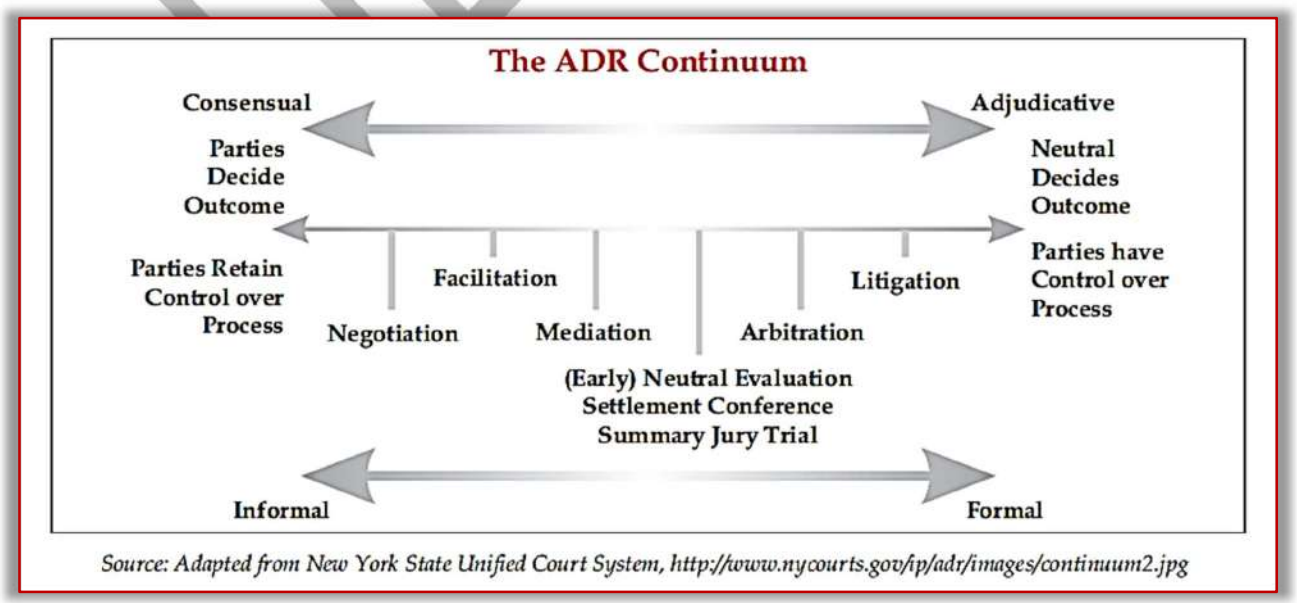
In addition to the Prime Minister, the Lokpal's jurisdiction encompasses any individual who is or has been a Union Minister or a Member of either House of Parliament. However, it does not investigate matters related to parliamentary speeches or votes, as stipulated under Article 105 of the Constitution. Regarding the bureaucracy, the Lokpal covers officials from Groups 'A,' 'B,' 'C,' or 'D' as defined in the **Prevention of Corruption Act, 1988**, whether currently serving or previously associated with the affairs of the Union. The Act also mandates that public servants declare their assets.

INTERESTING FACT

Only 20 Indian States and 2 Union Territories have Lokayukta. Maharashtra was the first State to introduce the institution of Lokayukta in 1971. There are no Lokayuktas in Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tamil Nadu, Tripura, and West Bengal. The process to set up Lokayukta in Goa is in progress.

According to the Act, the **Lokpal** is structured as follows:

- It includes a **chairperson** who must be a former Chief Justice of India, a current or former Supreme Court Judge, or an eminent judicial member with at least 25 years of expertise in anti-corruption, public administration, vigilance, or finance.
- The total number of Lokpal members cannot exceed **eight**, with **50%** of these members being judicial appointees.



Source: Adapted from New York State Unified Court System, http://www.nycourts.gov/ip/adr/images/continuum2.jpg

The powers granted to the Lokpal are extensive and comparable to the investigative authority of the police and the **Central Vigilance Commission**. The Lokpal is equipped with both inquiry and prosecution wings to take necessary actions against public servants for offenses under the **Prevention of Corruption Act, 1988**. Additionally, the Lokpal can recommend the establishment of special courts for cases arising from this Act.

The **Lokpal and Lokayuktas Act, 2013** also mandates the creation of Lokayuktas in every state to address corruption complaints against public functionaries. All states are required to establish Lokayuktas within one year from the enactment date of the Act. Notably, some states in India, including **Delhi**, **Karnataka**, and **Kerala**, had already implemented Lokayukta institutions before the passage of this Act.