

## Alternative Dispute Resolution (ADR) Mechanism and Role of Professionals- Legal and Regulatory Framework



*Alternative Dispute Resolution (ADR) mechanism is a holistic concept of a “consensus-building” to resolve almost all disputes of compoundable nature, including minor criminal cases. The process of ADR aims at arriving at a workable solution to the disputes rather than going into legalities and raising merits and demerits. At the same time, in ADR process, rules of natural justice are followed and contractual rights of the parties are protected. In India, both the legislature and judiciary promote ADR mechanism, comprising arbitration, conciliation, mediation Lok Adalat or and judicial settlement through courts. In this context, the author attempts to discuss the legal and regulatory framework of the ADR mechanism and role of professionals in India. Read on...*

*“I realise that the true function of a lawyer was to unite parties.... A large part of my time during the 20 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.”-Mahatma Gandhi*

### Introduction

Alternative Dispute Resolution (ADR) mechanism is a holistic concept of *consensus-building* to resolve almost all disputes of compoundable nature—contractual, mercantile, commercial, banking, property, labour, compensation and family, including minor criminal disputes. The process of ADR aims at

arriving at a workable solution to the disputes rather than going into legalities and raising merits and demerits. In ADR mechanism rules of natural justice are followed and contractual rights of the parties are protected. There is less of law and lawyers and more of common sense and goodwill. The emphasis is on win-win settlement rather than win-lose situation for the parties. Other advantages of ADR include speed, economy, and convenience, simplicity of procedure, secrecy and encouragement of healthy relationship between the parties. As such, the legislature, judiciary and executive promote ADR methods—arbitration, conciliation, mediation, *Lok Adalat* and/or judicial settlement through courts, without litigation. In this context, an attempt is made to discuss the legal and



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regulatory framework of the ADR mechanism and role of professionals in India.

## Legal and Regulatory Framework

The ADR mechanism is founded on the letter and spirit of the Constitution of India. The preamble to the Constitution provides to all its citizens "JUSTICE, social, economic and political." Article 14 guarantees fundamental right of "equality before law or equal protection of law." Further, Article 39A of the Directive Principles of State Policy enunciates, "Equal justice and free legal aid."

The object of the Legal Services Authority Act (LSAA), 1987 is "to provide free and competent legal service to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise Lok Adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity." The NLSAA accordingly provides legal aid and ensures equal opportunities and equal justice to all by free legal services throughout the country through the state, district and Taluk legal services authorities and the High Court and the Supreme Court Legal Services Committees.

Section 89 of the Code of Civil Procedure (Code), 1908, empowers the court to refer certain disputes, where there exist elements of settlement by the parties, for settlement either by way of arbitration, conciliation and judicial settlement, including settlement through *Lok Adalat* or mediation. The pre-condition of reference is that the Court shall formulate the terms of settlement and give them to the parties for their observation, and, after receiving their observations, again formulate the terms of settlement and refer the same for settlement to any of the aforesaid forums.

The procedure of resolution of dispute under Section 89 of the Code is laid down under Order 10, Rule 1A, 1B, and 1C. Simply stated, the Court shall, after recording the admission and denial of parties

to the suit, direct the parties to opt for either of the above modes of settlement outside the court and fix the date of appearance before the forum opted by them (Order 10 Rule 1A). The parties thereafter appear before the forum opted by them (Order 10 Rule 1B). The presiding officer of the forum shall try to settle the issue, failing which refer the matter back to the court and direct the parties to appear before the court on the given date (Order 10 Rule 1B).

The Supreme Court of India in *Salem Advocate Bar Association vs. Union of India [2003(1)SCC 49]* considering the laudable object of Section 89, upheld its validity with all its imperfections, but referred it to a committee in the hope that it would be implemented by ironing the creases.

Subsequently, the Apex Court in *Salem Advocate Bar Association vs. Union of India [2005(6) SCC 3440]* applied the principle of purposive construction in interpreting Section 89 to make it workable. This was done by equating "terms of settlement" to a "summary of dispute" meaning thereby that the court is only required to formulate a 'summary of disputes and not terms of settlement.' Further, the Apex Court adopted the following definition of 'mediation' suggested in the model mediation rules, in spite of a different definition in Section 89(2) (d):

*"Settlement by 'mediation' means the process by which a mediator appointed by parties or the Court, as the case may be, mediates the dispute between the parties to the suit by the application of provisions of Mediation Rules, 2003 in Part II, and in particular, by facilitating discussion between parties directly or by communicating with each other the mediator, by assisting parties in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, generating options in an attempt to solve the dispute and emphasising that it is the parties' own responsibility for making decisions which affect them."*

The Supreme Court of India, while deciding *Afcons Infrastructure Ltd. & Anr. vs. Cherian Varkey Const. Co. (P) Ltd. & Anr. (Civil Appeal No.6000 of 2010)*, framed the following issues:

- (i) What is the procedure to be followed by a court in implementing section 89 and Order 10 Rule 1A of the Code of Civil Procedure (Code)?
- (ii) Whether consent of all parties to the suit is necessary for reference to arbitration under Section 89 of the Code?

**Section 89 of the Code of Civil Procedure (Code), 1908, empowers the court to refer certain disputes, where there exist elements of settlement by the parties, for settlement either by way of arbitration, conciliation and judicial settlement, including settlement through *Lok Adalat* or mediation.**

The Apex court remarked that the wordings of Section 89 “puts the cart before the horse and lays down an impractical, if not impossible, procedure in sub-Section (1). It has mixed up the definition in sub-Section (2). In spite of these defects, the object behind Section 89 is laudable and sound.” The Apex Court in Para 31 of the judgment summarised the procedure to be adopted by a court under Section 98 of the Code as:

- (a) *When the pleadings are complete, before framing issues, the court shall fix a preliminary hearing for appearance of parties. The court should acquaint itself with the facts of the case and the nature of the dispute between the parties.*
- (b) *The court should first consider whether the case falls under any of the category of the cases which are required to be tried by courts and not fit to be referred to any ADR process. If it finds the case falls under any excluded category, it should record a brief order referring the nature of the case and why it is not fit for reference to ADR processes. It will then proceed with the framing of issues and trial.*
- (c) *In other cases (that is, in cases which can be referred to ADR processes) the court should explain the choice of five ADR processes to the parties to enable them to exercise their option.*
- (d) *The court should first ascertain whether the parties are willing for arbitration. The court should inform the parties that arbitration is adjudicatory process by chosen private forum and reference to arbitration will permanently take the suit outside the ambit of the court. The parties should also be informed that the cost of arbitration will have to be borne by them. Only if both parties agree for arbitration, and also agree upon the arbitrator, the matter should be referred to arbitration.*
- (e) *If the parties are not agreeable for arbitration, the court should ascertain whether the parties are agreeable for reference to conciliation which will be governed by the provisions of the Arbitration and Conciliation Act. If all the parties agree for reference to conciliation and agree upon the conciliator(s), the court can refer the matter to conciliation in accordance with Section 64 of the Arbitration and Conciliation Act.*
- (f) *If parties are not agreeable for arbitration and conciliation, which is likely to happen in most of the cases for want of consensus, the court should, keeping in view the preferences/options of parties*
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- refer the matter to any one of the other three ADR processes: (a) Lok Akalat; (b) mediation by a neutral third party facilitator or mediator; and (c) a judicial settlement, where a Judge assists the parties to arrive at a settlement.*
- (g) *If the case is simple, which may be completed in a single sitting, or cases relating to a matter where the legal principles are clearly settled and there is no personal animosity between the parties (as in case of motor accident claims), the court may refer the matter to Lok Adalat. In case where the questions are complicated or cases which may require several rounds of negotiations, the court may refer the matter to mediation. Where the facility of mediation is not available or where the parties opt for the guidance of a Judge to arrive at a settlement, the court may refer the matter to another judge for attempting settlement.*
- (h) *If the reference to the ADR process fails, on receipt of the Report of the ADR Forum, the court shall proceed with hearing of the suit. If there is a settlement, the court shall examine the settlement and make a decree in terms of it, keeping the principles of or Order 23 Rule 3 of the Code in mind.*
- (i) *If the settlement includes disputes which are not the subject matter of the suit, the court may direct that the same will be governed by Section 74 of the Arbitration and Conciliation Act (if it is a Conciliation Settlement) or Section 21 of the Legal Services Authorities Act, 1987 (if it is a settlement by Lok Adalat or by mediation which is a deemed Lok Adalat). This will be necessary as settlement agreements deal with not only the disputes which are the subject matter of the suit or proceeding in which the reference is made, but also other disputes which are not the subject matter of the suit.*
- (j) *If any term of the settlement is ex-facil illegal or unenforceable, the court should draw the attention of the parties thereto to avoid further litigations and disputes about execution of settlement.*

## ADR Methods

### Arbitration

The legal and regulatory framework of “*arbitration*” is governed by the Arbitration and Conciliation Act (Act), 1996. Arbitration method is statutory, speedy, economical method of resolution of civil dispute. The basis of arbitration is an agreement between the parties to submit their present or future disputes of civil nature to named arbitrator(s) or institutional arbitrator. Further, all national and international disputes, which are of civil nature, can be referred to arbitration. The obvious advantages of arbitration are party autonomy, procedural flexibility, speed, economy, simplicity, confidentiality, neutrality and impartiality of empire. The business community has itself created the institution of arbitration and, therefore, the basic principles of arbitration are almost universally acceptable.

The parties may also opt for fast track arbitration and request the arbitral tribunal to decide their dispute within a fixed time schedule. The arbitral tribunal can in fast tract arbitration, if the parties to dispute so desire, decide the dispute on written pleadings, documents and written submissions filed before him without or with minimum hearings. The final outcome of arbitration proceedings is “*award*” – interim and final. The final award under Section 31 is a reasoned award settling all issues and signed by the arbitrator(s) and delivered to each party. An arbitration award is as good as a decree of a court for enforcement.

Section 5 of the Act restricts judicial interventions except under Section 9 of the Act for interim measures; Section 11(5) for appointment of arbitrator; Section 27 for taking evidence; and Section 34 of the Act for setting aside arbitral award and Section 36 of the Act for enforcement of arbitral award.

### Supreme Court’s Interpretation in *Afcons Infrastructure Ltd. & Anr. vs. Cherian Varkey Const. Co. (P) Ltd.*

If there was a pre-existing arbitration agreement between the parties, in all probability, even before the suit reaches the stage governed by Order 10 of the Code, the matter would have been referred to arbitration either by invoking Section 8 or Section 11 of the Act and there would be no need to have recourse to arbitration under Section 89 of the Code.

Section 89 of the Code, therefore, presupposes that there is no preexisting arbitration agreement. Even if there was no preexisting arbitration agreement,

the parties to the suit can agree for arbitration when the choice of dispute resolution processes is offered to them by the court under Section 89 of the Code. Such agreement can be by means of a joint memo or joint application or a joint affidavit before the court, or by record of the agreement by the court in the order sheet signed by the parties. Once there is such an agreement in writing signed by the parties, the matter can be referred to arbitration under Section 98 of the Code, and on such reference, the provisions of the Act will apply to the arbitration. In such a situation, the case will go out of the stream of court permanently. If there is no agreement between the parties for reference to arbitration, the court cannot refer the matter to arbitration under Section 89 of the Code without their consent. Reference to arbitration under Section 89 of the Code could only be with the consent of the parties.

It emerges from the above that in the absence of preexisting arbitration agreement between the parties, the consent of all the parties to the suit will be necessary, for referring the subject of the suit to arbitration under Section 89 of the Code. Further, the award of the arbitrator(s) is binding on the parties under Section 36 of the Act and is executable/enforceable as if a decreed of a court.

### Conciliation

The legal and regulatory framework of “*conciliation*” is also governed by the Arbitration and Conciliation Act (Act), 1996. Conciliation is a statutory but non-adjudicatory method in nature. If the parties want to resolve their dispute by conciliation, they have to reach an agreement to appoint a conciliator(s) and submit to him their dispute under Section 62 of the Act. The conciliation shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute under Section 67 of the Act.

The conciliator is guided by principles of objectivity, fairness and justice, giving consideration

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to, among other things, the rights and obligations of the parties, the usage of the trade concerned and the circumstances surrounding the parties, including any previous business practices between the parties. The parties in good faith co-operate with the conciliator and provide the required information and documents for settlement of disputes. The conciliator suggests solutions and persuades the parties to consider make amendments to make solution acceptable to them.

The conciliator, after settlement of disputes between the parties, draws the 'Settlement Agreement' under Section 73 of the Act. The settlement so drawn is enforceable Section 30 of the Act as if it is an arbitral award under Section 30 of the Act. The conciliation proceedings are terminated on signing the settlement agreement, and if conciliation do not succeed, a written declaration of termination of the conciliation proceedings by the parties. Conciliation, being a consensus agreement, cannot be challenged and leads to personal empowerment of parties in mutual settlement.

Section 77 of the Act provides that the parties to the dispute shall not initiate arbitration or judicial proceedings during the conciliation proceedings.

### **Supreme Court's Interpretation in *Afcons Infrastructure Ltd. & Anr. vs. Cherian Varkey Const. Co. (P) Ltd.***

If the parties are not agreeable for arbitration, the court should ascertain whether the parties are agreeable for reference to conciliation, which will be governed by the provisions of the Arbitration and Conciliation Act. Under Section 98 of the Code, if all parties agree for reference to conciliation and agree upon the conciliator(s), the court can refer the matter to conciliation in accordance with Section 64 of the Arbitration and Conciliation Act.

In case parties to the dispute do not agree for conciliation, there can be no conciliation. As such, court cannot refer the parties to conciliation under Section 98 of the Code without consent of all the parties. As contrast from the arbitration, when a

matter is referred to conciliation, the matter does not go out of the stream of court process permanently. If there is no settlement, the matter is returned to the court for framing of issues and proceeding with trial.

### **Mediation**

Mediation is governed by the LSAA. The philosophy of mediation is that conflict belongs to the parties and, therefore, the solution must emerge from the parties in a democratic and collaborative manner. It is a structural negotiation process for voluntary resolving a wide range of civil disputes and minor criminal disputes.

In mediation, an impartial and neutral mediator tries to bring together the disputant parties to arrive at a mutually-agreeable solution. The parties in dispute ventilate their grievances and feelings and thereafter work out the solutions to meet their requirements. The prerequisite of conciliation is the confidence reposed by the parties in their mediator as the right person whom they can disclose their issues in confidence. The mediator(s) make parties to feel at ease and encourage them to communicate freely and share information and facts with each other to reach an amicable settlement. He is a patient listener but has no authority to take decisions and does not impose his views on what should be a fair settlement.

The mediator makes talk work, who allows the volcano of accumulated feelings of parties to burst. Once, the parties find emission of their feeling, they cool down and start negotiations in a constructive manner. The mediator then acts as a facilitator encourages parties to focus on their future, generate options and come out with probable solutions to their disputes and help them selecting the best one which meets their requirements. The thrust is on harmony by creating win-win situation for the disputing parties. The mediator with the consent of the parties settles all the disputes and drafts a compromise and settlement. Mediation settlement, being a consensus agreement, cannot be challenged in a court of law.

### **Supreme Court's Interpretation in *Afcons Infrastructure Ltd. & Anr. vs. Cherian Varkey Const. Co. (P) Ltd.***

For 'mediation', the court shall refer the parties to a suitable institution or person and such institution or person shall be deemed to be a *Lok Adalat* and all the provisions of Legal Services Authorities Act shall

apply as if the dispute were referred to a *Lok Adalat* under the provisions of the Act.

## Judicial Settlement

The judicial settlement is not governed by any enactment. The court adjudicating the matter, if the parties are agreeable, may refer the parties to reach an amicable settlement with the assistance of another Judge nominated by the court for helping the parties reach mutual settlement of their disputes. In practice, the court refers the matter to *Lok Adalat* for judicial settlement, if mediation process is not available (for want of mediation centre or qualified mediators) or where the parties opt for the guidance of a Judge to arrive at a settlement. Where the matter is referred to another judge for assisting parties and mutual settlement is reached, such a settlement agreement have to be placed before the court to make a decree in terms of the settlement reached.

With regard to matters/disputes which are not the subject matter of the suit/proceedings, the court will have to direct that the settlement to be effective will be governed by Section 21 of the Legal Services Authority Act as in respect of *Lok Adalat* or Mediator. In case where the cases are complicated or may require several rounds of negotiations, the court may refer the matter to mediation, where the facility of mediation is available.

In case, the court refers the matter to an ADR process (other than arbitration), it keeps track of the matter by fixing a hearing date for the ADR Report. The period allotted for the ADR process can normally vary from a week to two months (which may be extended in exceptional cases, depending upon the availability of the alternative forum, nature of the case, etc).

## Lok Adalat

*Lok Adalats* have been set up under the LSAA as ADR mechanism where parties are encouraged to reach amicable settlement of their cases outside the

court system. The *Lok Adalats* are organised by the National Legal Services Authority, State Legal Services Authority and District Legal Services Authorities all over India for the settlement of disputes.

Section 19(5) of the LSAA provides that a *Lok Adalat* shall have jurisdiction to determine and to arrive at a compromise or settlement between the parties to a dispute relating to:

- (i) any case pending before; or
- (ii) falling within the jurisdiction of a court,

but not brought before any court for which the LA is organised. *Lok Adalats*, however, have jurisdiction only in respect of cases which are compoundable under any law civil and criminal law.

## Supreme Court's Interpretation in *Afcons Infrastructure Ltd. & Anr. vs. Cherian Varkey Const. Co. (P) Ltd.*

The award of *Lok Adalat* in terms of the settlement agreed between the parties is deemed to be a decree of the civil court and executable as such under Section 21 of the LSAA. The settlement award may not require the seal of approval of the court for its enforcement when they are made in direct reference by parties without the intervention of court. However, if the settlements are reached by reference of a court in pending suit/proceedings, the court will continue to retain control and jurisdiction over the cases referred by it to *Lok Adalat* and the settlement award will have to be placed before the court for disposing of the matter in terms of the settlement reached.

In case, a court refers a case to a neutral third party for mediation, it will be deemed to be reference to *Lok Adalat*. The court will retain its control and jurisdiction over the matter and the settlement reached by mediation will have to be placed before the court for recording the settlement and disposal.

In case, a settlement is reached before non-judiciary ADR forum and placed before the court, it will be treated as '*compromise of suit*' under Order 23 Rule 3 of the Code, and the court shall make a decreed order in terms of the settlement. The consensual settlement as the award made by LA is final and cannot be appealed to any court. Section 21 of the LSAA states that an award of the LA is deemed to be a decree or an order of a court and where a compromise or settlement has been reached, the court-fee paid in such a case has to be refunded under the Court Fees Act.

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**In mediation, an impartial and neutral mediator tries to bring together the disputant parties to arrive at a mutually-agreeable solution. The parties in dispute ventilate their grievances and feelings and thereafter work out the solutions to meet their requirements.**

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# Corporate & Allied Laws

So far, more than 11,00,000 *Lok Adalats* have been organised resolving 3.76 crore cases. *Lok Adalats* have been successfully handle cases where parties can reach an amicable settlement. The National Legal Services Authority (NLSA) on 23<sup>rd</sup> November, 2013 organised *Lok Adalats* throughout the country and disposed of over 28,26,000 cases out of 39,00,000 cases in less than seven hours. In Delhi alone, 300 benches including at the High Court cleared 3,66,000 cases, which implies that each bench cleared more than three cases every minute on average. This was possible because many cases were bunched together and much of the legal work was done in advance. It is, however, noteworthy that most of the litigants expressed a sigh of relief over the settlement reached, whereas some requested that their cases be sent back to courts.

In the final analysis, adjudicative or determinative processes are not dispute resolution processes. Judges adjudicate disputes coming before their courts without focusing on resolving disputes. They simply

decide or adjudicate disputes as per law through adversary method. Judges have wide powers under the law to decide the dispute brought them, but a conciliator or mediator has to use his knowledge and skills to facilitate resolution of the disputes by the parties themselves. Litigation leads to a win-lose situation and aggravates animosity between the parties. On the other hand, ADR methods are holistic concepts of a consensus-building and deal with not only with actual but also potential disputes and conflicts between the parties, leading to win-win situation by preserving goodwill. This is, however, no easy task because consensus-oriented approach is fundamentally different from adjudication. In fact, conflict avoidance, management and resolution are simply three closely related sequential approaches each of which has relevance and application within the broad field of social, commercial and personal interaction.

Please refer to the following table for comparative rating on ADR methods:

## Comparative Rating on ADR Methods

Sl. No.	Rating criterion	Litigation	Arbitration	Conciliation	Mediation	Lok Adalat
1	<b>Statutory</b>	Yes	Yes	Yes	Yes	Yes
2	<b>Adversarial</b>	Yes	Yes	No	No	No
3	<b>Role</b>	Judge adjudicates	Arbitrator Gives award	Conciliator prepares conciliation settlement	Mediator help Parties in mutual settlement	Judge provides settlement
4	<b>Outcome</b>	Verdict/ Judgment	Award	Conciliation Settlement	Mutual Settlement	Settlement Order
5	<b>Scope</b>	Enforcement of rights	Commercial Disputes	Wider	Widest	Wide
6	<b>Parties' Participation</b>	Nil	Yes	Yes	Total	Limited
7	<b>Appeal</b>	Appealable	Appealable	No Appeal	No Appeal	No appeal
8	<b>Language</b>	Legal	Technical	Technical	Simple	Legal
9	<b>Technicality/ Legality</b>	Very High	High	Low	Minimum	Low
10	<b>Cost</b>	Very High	High	Low	Nil	Nil
11	<b>Time</b>	Very Long	Long	Shorter	Short	Shortest
12	<b>Parties' Satisfaction</b>	Lowest	Low	Average	Highest	Lower
13	<b>Approach</b>	Easiest	Easier	Difficult	Most difficult	Easy
14	<b>Relationship</b>	Aggravates hostile relationship	Remains strained	Remains harmonious	Remain harmonious	Remains normal
15	<b>Advocate</b>	Required	Required	Not required	Not required	Not required

## Role of Professionals

Profession is a body of knowledge, intellectual skills, training and having a regulatory body with code of conduct to regulate members. The professional characteristics include:

- Body of specialised of knowledge and skills within a framework of values;
- Observing self-subordination, honesty, uprightness at work place and profession and rendering service to the society;
- Thrust on expertise to excel rather than monetary gains;
- Relationship of trust and beneficence with client;
- Institution to regulate admission and conduct of professionals on legal and ethical standards; and
- Commanding public recognition for the independence, integrity, credibility and authority in professional services.

Professionals are members of a professional body, possessing domain expertise and ethical values with a code of conduct. Professional ethics are the values comprising spirit of service and care to society, contract of commitment and confidentiality with clients. A distinguishing characteristic of a professional is his ability to combine the technical skills with high ethical standards in practice as per the 'Code of Conduct' in discharge of their responsibilities.

Professionals play significant role in the functioning of corporate sector by advising and assisting the management. In recognition of the multi-disciplinary knowledge and expertise of professionals in resolution of business and commercial disputes, the Companies Act, 2013, provides opportunities for professionals to assist Company Liquidator and empanel in the 'Mediation and Conciliation Panel'. Under Section 291 of the Companies Act, company liquidator may, with the sanction of the Tribunal, appoint chartered accountants, company secretaries, cost accountants, legal practitioners, or such other professionals, to assist her/him in the performance of duties and functions under the Act. Under Section 442 of the Companies Act, the Central Government shall maintain a panel of experts to be called as Mediation and Conciliation Panel having prescribed qualifications for mediations between the parties during the pendency of any proceedings before the Central Government or the Tribunal or the Appellate.

The professionals can contribute in the following areas:

- (i) Acting as arbitrators, conciliators and mediators

in resolution of business and commercial disputes;

- (ii) Representing clients before the ADR tribunals and assisting in reaching at win-win-situation;
- (iii) Advising on conflict resolution and dispute management to save time, cost and cordial business relationship;
- (iv) Enhancing satisfaction level of parties by encouraging and helping them to find practical solutions to their disputes ; and
- (v) ADR advocacy to empower society, avoid litigation and reducing the burden of judiciary.

The professional bodies can also interact and persuade the Government to provide for the ADR mechanism under other business and corporate laws to carve out a niche for themselves.

## Conclusion

In India, the backlog of cases as per official record on 30<sup>th</sup> March, 2012 are 2,86,29,605 in district courts, 44,07,861 in high courts and 65,893 in the Supreme Court of India. Further, about 1.8 crore cases are filed every year and the average disposal rate is almost equivalent to the filing rate. Consequently, there is no decrease in the arrear.

The ADR mechanism is, therefore, of practical utility in providing speedy and effective relief to the litigants and reducing the pending cases in courts. *Lok Adalts* are particularly successful in cases where parties reach amicable settlements, particularly for the poor, weaker and illiterate people, who are often intimidated and confused by the courts and procedures. The awards of *Lok Adalats* are also executable decrees in courts.

Ex-Justice Sandra Day O'Connor of the US Supreme Court rightly remarked: "*The courts should not be the places where resolution of disputes begins. They should be the places where the disputes end, after alternative methods of resolving disputes have been considered and tried.*" In fact, many parties prefer ADR because they want to avoid court proceedings, disclosing their confidential information, appearing as witness, uncertainty of time and consequences of any un-favourable judgment. The ADR methods, therefore, provide fair and workable alternatives to the traditional judicial system. As such, in the emerging business scenario, professionals can make a significant contribution towards final resolution of business disputes within agreed time and budget by offering better and qualitative results than the adversarial system. ■