
TRAUMA IN SEEKING JUSTICE: ADR AS A SOURCE OF HEALING TO THE AGGRIEVED

Ruthresh Kumaran. M, B.E, MBA, LL.B, M.Sc Psy., LL.B. Hons., Department of International Law and Organization, TamilNadu Dr Ambedkar Law University, School of Excellence in Law, Taramani, Chennai.

ABSTRACT

Justice is not merely a legal entitlement and cure, but also a human experience that has a tremendous impact on the psychological and emotional health of victims seeking it. For most victims and litigants, the formal legal system, with its adversarial process, long delays, expense, and inhumane cross-examinations, multiplies their trauma instead of mitigating it. Survivors of sexual assault, acid attacks, and other vulnerable populations tend to view the justice process as a "second wound," perpetuating feelings of helplessness and distress. In this context, Alternative Dispute Resolution (ADR) has become a significant addition to the mainstream system, providing not just speed but also avenues to healing. The ADR mechanisms like mediation, conciliation, Lok Adalats, and restorative justice provide arenas of interaction, confidentiality, participation, and empathy, enabling parties to recover control and emotional affirmation. Indian efforts with ADR - from family court mediation to victim-offender dialogues - highlight its promise to dampen hostility, facilitate reconciliation, and restore dignity. Yet, challenges remain, such as power disparities, absence of trauma-sensitive mediator training, cultural expectations, and low applicability to some serious offenses. The author contends that a trauma-informed justice framework should incorporate ADR into the larger legal environment. Parliamentary legislations like the Family Courts Act, 1984, the Arbitration and Conciliation Act, 1996, and the Mediation Act, 2023 give a platform, but need institutional backup, compulsory trauma training, and victim-centric services. Basing our ideas on models from other countries, like South Africa's Truth and Reconciliation Commission, the research underscores the necessity of systemic, cultural, and technological advancements to construct a healing-oriented system of justice. Finally, ADR must not substitute formal adjudication but rather supplement it by focusing on the psychological and emotional aspects of justice so that legal proceedings provide dignity, agency, and closure instead of causing harm.

Keywords: Justice, Trauma, Alternative Dispute Resolution (ADR), Trauma-Informed Justice, Healing-Centred Justice.

INTRODUCTION

Justice, in its most fundamental sense, is expected to restore balance by upholding rights, enforcing duties, and redressing wrongs. Yet, justice is not merely a matter of statutes and judgments, it is also a deeply integrated human process that directly affects the emotional and psychological well-being of those who seek it. The pursuit of justice is ideally meant to heal, restore dignity, and provide closure. Paradoxically, however, the existing legal system often compounds suffering, creating what many scholars and courts now describe as a “second wound.”¹

The adversarial model of litigation, inherited from colonial traditions and deeply embedded in the Indian legal system, is characterised by rigid procedures, cross-examination, adversarial confrontation, and frequent delays. While designed to ensure fairness and due process, this model frequently imposes unintended harms. Survivors of sexual violence, for instance, often report humiliation and re-traumatisation during cross-examinations, as seen in *Sakshi v. Union of India*, where the Court itself recognised the vulnerability of victims in adversarial settings.² Similarly, survivors of acid attacks face not only the physical and social aftermath of violence but also prolonged delays in litigation, with many cases stretching over a decade.³ In such contexts, the system designed to uphold dignity ends up exacerbating psychological distress, leading to a denial of both justice and healing.

Against this backdrop, Alternative Dispute Resolution (ADR) has emerged as a significant corrective. ADR encompasses a range of methods - including arbitration, mediation, conciliation, Lok Adalats, and restorative justice - that prioritise dialogue, participation, confidentiality, and empathy. Unlike litigation, which often fosters hostility, ADR creates spaces where disputants are heard, validated, and empowered to actively shape outcomes.⁴

This restoration of agency is crucial in healing processes, particularly for those who have

¹ Judith Herman, *Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror* (Basic Books, 1992) 56.

² *Sakshi v. Union of India*, (2004) 5 SCC 518

³ “Justice Delayed, Healing Denied: Acid Attack Survivors Battle a Legal System Indifferent to Their Trauma and Suffering”, Article-14 (14 October 2021) <https://article-14.com/post/justice-delayed-healing-denied-acid-attack-survivors-battle-a-legal-system-indifferent-to-their-trauma-suffering--67f84e4d2c4d3> accessed 20 September 2025.

⁴ Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (Routledge, 2010) 45

suffered trauma and disempowerment. International research demonstrates that victims participating in mediation or restorative justice processes report reduced anger, anxiety, and distress, and greater satisfaction with outcomes than those subjected to adversarial court proceedings.⁵

In India, the promise of ADR has been increasingly recognised both legislatively and judicially. The Legal Services Authorities Act, 1987 institutionalised Lok Adalats as forums for speedy, inexpensive, and conciliatory justice.⁶ The Family Courts Act, 1984 mandated the involvement of counsellors and social welfare professionals in resolving disputes through counselling and mediation.⁷ More recently, the Mediation Act, 2023 has created an institutional framework to mainstream mediation as a legitimate and effective form of dispute resolution.⁸ Judicial pronouncements, such as in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co.*⁹ and *Salem Advocate Bar Association v. Union of India*¹⁰, have further reinforced mediation and conciliation as integral to India's justice delivery system.

This research is guided by the following questions:

1. How does the adversarial justice system contribute to secondary trauma for victims and litigants in India?
2. In what ways can ADR mechanisms such as mediation, conciliation, Lok Adalats, and restorative justice serve as pathways to healing?
3. What has been the Indian experience with ADR in addressing trauma, particularly in family disputes, victim-offender mediation, and Lok Adalats?
4. What challenges hinder the implementation of trauma-informed ADR practices in India?
5. How can a trauma-informed justice paradigm be developed in India, drawing from both domestic practices and international models?

⁵ Carrie Menkel-Meadow, 'Peace and Justice: Notes on the Evolution of Legal Processes' (2006) 94 Georgetown Law Journal 553.

⁶ Legal Services Authorities Act, 1987, s. 19.

⁷ Family Courts Act, 1984, s. 9.

⁸ Mediation Act, 2023, ss. 6–9

⁹ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24.

¹⁰ *Salem Advocate Bar Association v. Union of India*, (2005) 6 SCC 344.

This research utilizes the Doctrinal research method, which entails the systematic examination of the legal principles, statutes, judicial rulings, and academic writings to comprehend the dynamics between trauma, justice, and ADR. Primary material consists of statutory law, and judicial precedents. Secondary material, in the form of books, articles in journals, and reports, is used as an add-on to the analysis. The research is qualitative, based on textual and doctrinal analysis, but not empirical data. Secondary reports on mediation outcome, family counselling centres, and victim-offender mediation programs are used for contextual insight.

TRAUMA OF JUSTICE-SEEKING AND THE PROMISE OF ADR

The justice-seeking process is generally believed to be a redemptive process for victims, which ensures the restoration of dignity and closure. Legal systems everywhere in the world, including India, prove that the adversary system of litigation generally intensifies trauma instead of redressing it. The law, in this context, becomes not only a forum of adjudication but also a space where victims are re-traumatized through the formalities of procedure, delays, and adversarial modes of trial.¹¹

Trauma in legal proceedings is more than just the original wrong endured. Psychologists have long noted that victims of violence and injustice are subjected to secondary victimisation by courtrooms.¹² Court process, including successive testimony, hostile cross-examination, and excessive delays, re-awakens feelings of powerlessness. Studies indicate that adversarial hearings tend to intensify post-traumatic stress symptomatology (PTSS), defined by avoidance, intrusive recollections, hyperarousal, and distress.¹³ In doing so, the justice system establishes "power-over" relationships that mirror the loss of agency survivors suffered through their initial victimisation.¹⁴

In India, the courts have recognized this psychological load. In *Thankappan v. State of Kerala*, the judiciary invoked scientific research on trauma, acknowledging that victims can respond to injury in terms of complete surrender, a defence mechanism for the mind where the "defensive system closes down completely".¹⁵ In like manner, the Supreme Court, in cases of motor

¹¹ Nandita Haksar, *Demystification of the Indian Legal System* (Penguin India, 2012) 134.

¹² Judith Herman, *Trauma and Recovery: The Aftermath of Violence—From Domestic Abuse to Political Terror* (Basic Books, 1992) 57.

¹³ Carrie Menkel-Meadow, 'The Lawyer's Role(s) in Deliberative Democracy' (2004) 5 Nevada Law Journal 347.

¹⁴ John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford University Press, 2002) 76.

¹⁵ *Thankappan v. State of Kerala*, 2021 SCC OnLine Ker 1223.

accident compensation, has invariably awarded compensation for physical injury and also for "pain and suffering," thereby acknowledging the long-term emotional trauma of victims.¹⁶

Litigation in India is well-known for procedural inflexibility and slowness. Serialized adjournments, congestion of dockets, and overloading of courts result in civil disputes lingering on for decades.¹⁷ Survivors of acid attacks, for instance, wait on average 10 years for closure, during which repeated hearings and lack of sensitivity from authorities aggravate their trauma.¹⁸ Women and children, especially in sexual violence cases, tend to be subjected to degrading questions during cross-examinations, perpetuating victim-blaming rhetoric.¹⁹ Courts then become fearful environments in which unequal power dynamics are reenacted, perpetuating the suffering of already disenfranchised groups.

This "second wound" the trauma imposed by the justice process itself—calls into question very deeply whether or not traditional litigation is fulfilling its intended role. If justice delayed is justice denied, then similarly justice delayed is healing denied. In contrast to these deficits, ADR presents a fundamentally alternative model for delivering justice. Its worth is not only in efficiency but in how it can produce trauma-sensitive environments. ADR procedures like mediation, conciliation, and restorative justice offer scope for dialogue, acknowledgment, and empowerment - factors essential in healing. Mediation and conciliation protect victims from the public eye of courtroom trials. Confidential environments minimize stigma and spare victims unnecessary exposure to confrontational interrogation.²⁰ Research validates that participants in mediation report significantly lower anxiety, fear, and anger levels than those experiencing adversarial trials.²¹

Litigants who go through the justice system tend to experience an array of psychological traumas that have a significant effect on their quality of life. Fear of legal results, procedural

¹⁶ R.D. Hattangadi v. Pest Control (India) Pvt. Ltd., (1995) 1 SCC 551.

¹⁷ Marc Galanter, *Law and Society in Modern India* (Oxford University Press, 1997) 241.

¹⁸ "Justice Delayed, Healing Denied: Acid Attack Survivors Battle a Legal System Indifferent to Their Trauma and Suffering", Article-14 (14 October 2021) <https://article-14.com/post/justice-delayed-healing-denied-acid-attack-survivors-battle-a-legal-system-indifferent-to-their-trauma-suffering--67f84e4d2c4d3> accessed 20 September 2025.

¹⁹ "Indian Courts and Survivors of Sexual Violence: Shaming in Courtrooms", Feminism in India (14 October 2021) <https://feminisminindia.com/2021/10/14/indian-courts-survivors-sexual-violence-shaming/> accessed 20 September 2025.

²⁰ Hilary Astor and Christine Chinkin, **Dispute Resolution in Australia* (Butterworths, 2002) 213.

²¹ Carrie Menkel-Meadow, 'Peace and Justice: Notes on the Evolution of Legal Processes' (2006) 94 *Georgetown Law Journal* 553.

latency, and uncertainty give rise to anxiety and uncertainty, causing sleep disruptions and trouble concentrating. Depression and emotional burnout are prevalent, characterized by enduring sadness and withdrawal from others. Discussing traumatic experiences - for example, domestic violence or accidents - can precipitate symptoms of Post-Traumatic Stress Disorder (PTSD), such as hypervigilance and emotional numbing. The combative process of litigation often stokes anger and frustration, as evidenced by irritability and strained relationships. Moreover, most litigants are overwhelmed with fear and helplessness, especially at the risk of losing custody, reputation, or economic security, and consequently suffer from panic attacks and excessive reliance on lawyers. Collectively, these psychological pressures reinforce the imperative for trauma-informed court processes that centrally emphasize emotional safety and dignity.²²

The trauma of seeking justice reveals a contradiction in the Indian legal system: though the courts are meant to reclaim dignity, they tend to exacerbate wounds through adversarial processes. ADR poses an alternative, one that prioritizes healing by reclaiming agency, authenticating emotions, and building safe spaces for conversation. Its potential is not, however, in supplanting litigation but in supplementing it with trauma-sensitive practices. As India goes ADR legislatively and judicially, its task is to institutionalize trauma sensitivity in these systems so that justice can become not only a decision, but healing.

INDIAN EXPERIENCE WITH ADR AND HEALING

India's legal system has, in the last few decades, come more and more to recognize the place of Alternative Dispute Resolution (ADR) in providing access to justice, curing pendency, and, importantly, providing solutions with a healing focus. The Indian experience with ADR in resolving trauma, specifically through Lok Adalats, family court mediation and counselling, and victim-offender mediation under restorative justice models. These forums reflect the manner in which ADR, when used effectively, can minimize adversarial hostility, maintain relationships, and yield therapeutic gains for victims and disputants. Lok Adalats, enacted through the Legal Services Authorities Act, 1987, reflect India's effort at establishing a cheap,

²² See National Judicial Stress Survey Report, Centre for Mental Health and Law (2022) at 12–15, highlighting that over 65% of litigants experience heightened anxiety due to procedural uncertainty; see also R. Kumar, “Litigant Trauma and the Adversarial Process: A Psychological Perspective”, (2021) 4 Indian Journal of Law and Mental Health 45, 47–49, noting prevalence of PTSD symptoms among victims in family and criminal litigation; S. Mehta, “Therapeutic Jurisprudence in Indian Courts: A Path Forward”, (2020) 8 NUJS L. Rev. 112, 118, advocating trauma-informed legal practices to mitigate emotional harm.

informal, and conciliatory system of justice.²³ Such forums operate on the basis of compromise and mutual compromise instead of adversarial conclusion, such that parties willingly arrive at conclusions amenable to everyone.²⁴ For most victims, especially from marginalized communities, Lok Adalats bring psychological relief in not having to endure the long ordeal of litigation. The process is quick, confidential, and less intimidating than a regular courtroom.²⁵ Motor accident claims, matrimonial disputes, and family settlements are quite often sent to Lok Adalats, where cure is often given more importance than judicial resolution.²⁶

One vivid example is in Nagpur, where 25 couples in the process of divorcing were brought back together through Lok Adalat mediation.²⁷ . This illustrates the humanising function of ADR: rather than adversarial processes cementing hostility, dialogue-based processes brought relationships round and maintained families, and so avoided long-term emotional damage to children.

By facilitating rapid compensation in accident cases and encouraging settlement of family disputes, Lok Adalats serve a dual purpose—dispute resolution and psychological alleviation.²⁸ Their convenience, ease, and affordability make them especially relevant to traumatised victims who may otherwise shy away from the daunting atmosphere of courts. The Family Courts Act, 1984 requires the setting up of family courts with counsellors and welfare specialists to help resolve disputes.²⁹ The courts emphasize mediation and counselling over litigation and testify to an awareness that confrontational processes tend to exacerbate family conflict and trauma. Mediation in family courts enables parties to express their concerns in a non-adversarial environment. Studies show that mediation of matrimonial disputes leads to more positive psychological results, in that parties have freedom to speak without fear of being humiliated or judged.³⁰ Counsellors and mediators work towards reconciliation when possible, easing disputants from hostile positions towards insight.

²³ Legal Services Authorities Act, 1987, s. 19.

²⁴ Law Commission of India, Report No. 222, Need for Justice-Dispensation through ADR (2009) 17.

²⁵ Hilary Astor and Christine Chinkin, Dispute Resolution in Australia (Butterworths, 2002) 213.

²⁶ State of Punjab v. Jalour Singh, (2008) 2 SCC 660.

²⁷ “25 Couples from Nagpur Reunite at Lok Adalat via Mediation”, **Times of India** (24 February 2024)

<https://timesofindia.indiatimes.com/city/nagpur/25-couples-from-city-reunite-at-lok-adalat-via-mediation/articleshow/121087620.cms> accessed 20 September 2025.

²⁸ National Legal Services Authority, “Lok Adalats” <https://nalsa.gov.in/lok-adalats/> accessed 20 September 2025.

²⁹ Family Courts Act, 1984, s. 9.

³⁰ Lisa Parkinson, Family Mediation (Jordan Publishing, 2011) 89

This orientation has been supported through judicial practice. In *K. Srinivas Rao v. D.A. Deepa*, the Supreme Court of India highlighted that matrimonial disputes, whenever feasible, are to be resolved through mediation before approaching court.³¹ Family court mediation has yielded impressive success stories. Besides reconciliation, it has lowered animosity between estranged spouses, facilitated improved co-parenting agreements, and shielded children from having to bear the brunt of parental conflict within courts.³² This demonstrates that ADR not only resolves legal disputes but also addresses the psychological needs of families, promoting healing alongside settlement.

While India's criminal justice system remains primarily retributive, courts have gradually recognised the need for restorative practices in certain cases. Victim-offender mediation has emerged as an important mechanism within ADR, offering a dialogue-driven, healing-centred alternative. Victim-offender mediation allows victims to meet offenders in a structured environment, often with trained facilitators. The focus lies not on punishment, but on acknowledgment of harm, offender accountability, and victim empowerment.³³ Evidence indicates that this mediation lessens feelings of negative emotions like anger, fear, and anxiety and enhances victims' sense of security and control.³⁴

In *K. Srinivas Rao*, the Supreme Court itself directed criminal courts dealing with matrimonial cases under Section 498A of the Indian Penal Code to consider referring parties to mediation if settlement is likely. This is a judicial step towards integrating restorative justice into criminal settings.

Yet, the Supreme Court has also marked clear limits. In *Shimbhu v. State of Haryana**, it ruled that mediation is not possible..³⁵ This reflects a judicial move toward embedding restorative justice in criminal contexts.

However, the Supreme Court has also drawn clear boundaries. In *Shimbhu v. State of Haryana**, it held that mediation is in rape cases, noting that "dignity of a woman is a part of

³¹ *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226.

³² Rohilla, "Understanding the Role of Family Court Counsellors in Divorce Cases" (2023) [LinkedIn\[https://www.linkedin.com/pulse/understanding-role-family-court-counselor-divorce-cases-rohilla-ecgaf\]\(https://www.linkedin.com/pulse/understanding-role-family-court-counselor-divorce-cases-rohilla-ecgaf\)](https://www.linkedin.com/pulse/understanding-role-family-court-counselor-divorce-cases-rohilla-ecgaf) accessed 20 September 2025.

³³ John Braithwaite, *Restorative Justice and Responsive Regulation* (Oxford University Press, 2002) 92.

³⁴ Carrie Menkel-Meadow, 'Peace and Justice: Notes on the Evolution of Legal Processes' (2006) 94 *Georgetown Law Journal* 553.

³⁵ *K. Srinivas Rao v. D.A. Deepa*, (2013) 5 SCC 226.

her non-perishable and immortal self.”³⁶

This helps ensure that restorative processes are not abused to trivialise grave offences or coerce victims into compensation. The Indian experience shows that Alternative Dispute Resolution (ADR), when wisely instituted, can serve as a therapeutic process within the justice system.

In sparing victims the hostile confrontations of litigation, ADR provides psychological solace, and mediation reclaims agency by enabling parties to create their own solutions. Processes like family court mediation and Lok Adalats assist in saving relationships and averting conflict escalation, and victim-offender mediation legitimates emotional harm and brings closure. Empirical research supports that ADR process participants frequently exit with less hostility, higher self-esteem, and higher satisfaction than traditional litigation. India's embrace of ADR embodies a deepening understanding of justice as healing, with safe spaces for dialogue, confidentiality, and reconciliation. Yet, it is hampered by problems like power imbalances, mediators who are not adequately trained, and cultural inhibitions which can curb its healing potential. Even so, the Indian model shows that ADR, well-designed, can supplement formal adjudication by disposing of disputes in a way that retrieves dignity as well as agency.³⁷

CHALLENGES AND EMERGING PARADIGMS

Whereas Alternative Dispute Resolution (ADR) has shown the potential to be a valuable adjunct to India's formal justice system, it too has its own limitations. The ability of ADR to function as a healing-oriented mechanism relies not just on its structure but also on its application in various social and cultural settings. Operatively, limitations related to power imbalances, poor training, pressures of culture, and structural limitations come in the way of realizing its potential. Concurrently, a new world paradigm of trauma-informed justice is developing, inviting Indian legal institutions to embrace models that incorporate healing, dignity, and empowerment into justice processes. Perhaps the most serious challenge to ADR is the threat of power imbalances. In conciliation and mediation, the voluntary nature of agreement is essential. Yet in highly hierarchical cultures such as India, victims—particularly women in intra-familial disputes—can be forced to accept disadvantageous settlements

³⁶ *Shimbu v. State of Haryana*, (2013) 14 SCC 481.

³⁷ Nandini Chatterjee, “Mediation and Gender Justice in India” (2017) 59 *Journal of the Indian Law Institute* 213.

because of family, social, or economic obligations.³⁸

For example, in marriage cases, the women might assent to compromise on threats of social ostracization or economic marginalization, thus defying the very fundamental principle of free consent in ADR. Lacking proper safeguards, ADR could inadvertently reinforce existing disparities instead of curing them.³⁹ A further limitation is that ADR can't be made applicable in all disputes. Offences like rape, sexual assault, or serious domestic violence are not appropriate for mediation since they can trivialise injury and coerce complainants into settlement. The Supreme Court in *Shimbhu v. State of Haryana* made this clear, holding that mediation in rape was not acceptable since it would undermine the dignity of women.⁴⁰ This divide highlights the necessity to make a clear distinction between conflicts where the use of ADR is appropriate and those where the full vigor of retributive justice must take over. The success of ADR as a healing process largely depends on the professional competence of mediators, conciliators, and counsellors.

India, unfortunately, lacks professionals with training in trauma-sensitive interventions.⁴¹ Mediators tend not to possess the psychological awareness necessary to identify responses to trauma like withdrawal, hyperarousal, or dissociation in victims.⁴² . Lacking this sensitivity, ADR can end up re-traumatising participants instead of facilitating healing. Judicial and scholarly reports have stressed the need for mediators to undergo special training in trauma-informed methods.⁴³ Yet this remains underdeveloped in most mediation centres, particularly in areas beyond the metros. Indian ADR works in a pluralistic socio-cultural context characterized by caste hierarchies, patriarchy, and peer pressures. These can skew the voluntariness of settlements. Rural community mediation, for instance, may be more concerned with preserving social harmony than individual rights to result in victims being silenced by

³⁸ Nandini Chatterjee, "Mediation and Gender Justice in India" (2017) 59 *Journal of the Indian Law Institute* 213.

³⁹ K. Shanmugam, "ADR and Its Limits: The Indian Perspective" (2014) 56 *Journal of the Indian Law Institute* 223.

⁴⁰ *Shimbhu v. State of Haryana*, (2013) 14 SCC 481.

⁴¹ National Judicial Academy, *Counselling, Conciliation and Mediation in Resolving Family Disputes* (2021) [https://nja.gov.in/Concluded_Programmes/2021-22/P-1278_PPTs/1.Counselling](https://nja.gov.in/Concluded_Programmes/2021-22/P-1278_PPTs/1.Counselling), Conciliation & Mediation.pdf accessed 20 September 2025.

⁴² "Trauma-Informed Lawyering in India: Rethinking Advocacy", *Feminism in India* (28 September 2020) <https://feminisminindia.com/2020/09/28/trauma-informed-lawyering-india-legal-system/> accessed 20 September 2025.

⁴³ Law Commission of India, Report No. 222, *Need for Justice-Dispensation through ADR*(2009) 17.

compromises.⁴⁴ Such scenarios have doubts whether ADR always promotes justice, especially where cultural traditions take precedence over equality and autonomy considerations. Trauma-informed justice requires a set of institutional changes designed to minimize psychological damage and promote emotional safety for litigants.

This involves redesigning the physical space of courts and mediation centres to feel less oppressive, with clear private areas for contemplation and confidential advising. It entails process changes such as restricting repeated testimony, promoting clear and compassionate communication, and suppressing hostile cross-examination practices that have the potential to retraumatize vulnerable persons. Most importantly, staff training is necessary—judges, mediators, court employees, and police officers need to be trained with a subtle grasp of trauma reactions in order to interact sensitively with the involved parties.⁴⁵

Indian courts have started adopting this paradigm. In *Thankappan v. State of Kerala*, the High Court recognized psychological studies on trauma, noting that victims may lapse into a state of surrender when overwhelmed, and that should not be misinterpreted as consent or weakness.⁴⁶ Such recognition by the courts is advancement towards integrating trauma-informed practices into Indian jurisprudence. The passage of the Mediation Act, 2023 represents a legislative milestone towards institutionalizing mediation in India. The Act ensures confidentiality, voluntariness, and enforceability of settlements arrived at through mediation. The Act's First Schedule places some criminal cases outside the scope of mediation, representing a wise balance between restorative and retributive inclinations.

The Act, if supplemented with trauma-sensitive guidelines and capacity-building training, can shift mediation from being a docket-reduction measure to being an actual healing process.⁴⁷

ADR in India has undeniable challenges: power imbalances, cultural pressures, training deficits, and structural constraints regularly short-circuit its healing potential.

⁴⁴ Vivek Rohilla, "Understanding the Role of Family Court Counsellors in Divorce Cases" (2023) LinkedIn <https://www.linkedin.com/pulse/understanding-role-family-court-counselor-divorce-cases-rohilla-ecgaf> accessed 20 September 2025.

⁴⁵ S. Mehta, "Trauma-Informed Justice: Reimagining Legal Institutions for Psychological Safety", (2021) 13 *Indian Journal of Law and Mental Health* 89 at 92–95, discussing the need for trauma-sensitive court design, procedural safeguards, and personnel training to mitigate re-traumatization and promote emotional well-being in legal settings.

⁴⁶ *Thankappan v. State of Kerala*, 2021 SCC OnLine Ker 1223.

⁴⁷ Ministry of Law and Justice, Mediation Act, 2023: Legislative Brief (PRS India, 2023).

But these challenges also create the momentum for an emerging paradigm of trauma-informed justice, one that shifts legal processes from causings of harm to opportunities for healing.

By weaving in insights from global models, investing in mediator training, and weaving trauma-sensitive practices into legislative measures such as the Mediation Act, India can create a system of justice that is not only effective but also compassionate. The future of ADR, thus, lies in closing the gap between resolution and restoration so that justice is not just felt as a legal result but as a process of dignity, empowerment, and closure.

CONCLUSION

Justice should be a legal judgment only; it needs to heal as well. Adversarial litigation trauma illustrates the necessity of alternatives that bring dignity, agency and closure to the victimized. ADR, in the form of mediation, conciliation and restorative justice, can be a source of healing by decreasing adversarial hostility, creating safe spaces for dialogue and facilitating empowerment of victims. But ADR cannot be romanticised as an all-dispute-substituting mechanism.

Its potential is in augmenting the formal justice system, especially when relational, emotional and psychological aspects are at the centre. To make ADR discharge its healing potential, the reforms have to guarantee neutrality, trauma sensitivity and protection against coercion. The Indian experience showcases both the potential and the difficulties in putting healing-centred justice in place. Victory stories such as the Lok Adalat reunions in Nagpur prove what can be achieved when legal proceedings put human dignity and relationship healing on an equal footing with formal justice. The increasing acknowledgment of trauma-informed methods in judicial rulings shows a changing perception of justice—one that includes not only legal rights but human healing. Studies repeatedly demonstrate that victims involved in thoughtfully constructed ADR processes have lower levels of post-traumatic symptoms, higher perceptions of empowerment, and higher satisfaction with justice outcome compared to victims in conventional adversarial proceedings. These results argue for a paradigmatic reconceptualisation of justice as a healing rather than a punitive process. In a world weighted down by delays in litigation as well as human suffering, ADR is not only an alternative forum but a revolutionary approach—one that brings together justice with healing, legal redress with human dignity. The way forward needs sustained investment in training, infrastructure, and cultural transformation to build justice systems which effectively meet the needs of all, and

especially those who have already incurred harm. The end aim is not to supplant the formal justice system but to establish a full ecosystem of justice choices that can then appropriately respond to varying forms of harm and need for healing. This system would comprise: formal courts for situations in need of formal determination and deterrence; mediation and conciliation for situations that can be addressed through collaborative resolution; restorative justice processes for situations where victim-offender communication can lead to healing; and community-based approaches that involve wider social networks in conflict resolution.

As India goes ahead and builds out its ADR system and trauma-informed practice, these developments and outcomes should be documented and researched thoroughly. Such studies will not only help enhance national justice practice, but also contribute to world awareness of how legal systems can be used as tools of healing instead of generating more harm. The shift to healing-centred justice is not simply a matter of legal reform—it is a celebration of our shared humanity and our shared duty to build systems that respond to pain with care, to harm with healing, and to conflict with chances for growth and reconciliation. In this vision, justice is not merely a matter of what we do to offenders, but of how we restore wholeness to those who have been harmed and how we create communities that can heal and prevent future harm through understanding, accountability, and care.

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