
EVALUATING THE VIABILITY OF HYBRID ADR MODELS IN INDIA: THE CASE OF MED-ARB AND ARB-MED

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ABSTRACT

India's continuous attempts to restructure its overloaded legal system have highlighted attention on Alternative Dispute Resolution (ADR) as a way to provide prompt, affordable, and accessible justice. In this changing context, hybrid ADR mechanisms, such as Med-Arb or Arb-Med, have emerged as advanced models that aim to combine the binding nature of arbitration with the collaborative spirit of mediation. As a step-by-step procedure, they aim to maximize both party satisfaction and procedural effectiveness. Their applicability in the Indian legal system is still up for debate, though.

Although ADR is generally encouraged and permitted by Indian laws like the Arbitration and Conciliation Act, 1996, Section 89 of the Civil Procedure Code, and the Mediation Act, 2023, they do not provide a clear legal or moral foundation for hybrid approaches. Concerns like confidentiality, voluntariness, neutrality, and the ambiguous responsibilities of practitioners of dispute resolution are still mostly unaddressed. Moreover, ODR technology' explosive growth has resulted in a more complicated regulatory and procedural environment.

This research critically evaluates the legal compatibility, practical constraints, and reformative possibilities of hybrid ADR approaches in India. While acknowledging the potential of hybrid ADR schemes, this study contends that procedural protections, the readiness of the relevant institutions, and some particular legislative reforms are necessary for their success. Thus, the goal is to add to the broader conversation in India about viable alternatives to the customary litigation.

Keywords: Alternative Dispute Resolution, Arbitration, Mediation, Hybrid ADR.

CHAPTER 1: INTRODUCTION

1.1. Introduction

The Indian judiciary still suffers from extreme backlog and procedural delays which make resorting to Alternative Dispute Resolution (ADR) the only right option as it ensures access to justice that is quick and not costly. The best aspects of both mediation and arbitration—the former's flexibility and the latter's binding power—are combined in hybrid processes like Mediation-Arbitration (Med-Arb) and Arbitration-Mediation (Arb-Med), which have gained popularity among practitioners and users alike.

The SIAC–SIMC Arb-Med-Arb Protocol in Singapore and the CIETAC Med-Arb Rules in China are two examples of international norms that have supported these models. They demonstrate that clearly defining the processes offers a chance for efficiency and equity.

While the Mediation Act of 2023 and the Arbitration and Conciliation Act of 1996 promote amicable resolutions, they do not explicitly include hybrid alternative dispute resolution in the Indian context. Concerns of enforceability, neutrality, and confidentiality are raised by this lack of legal clarity.¹

In order to suggest the required reforms for the progressive implementation of hybrid alternative dispute resolution (ADR) in the Indian judicial system, the research will examine the theoretical foundations, legal principles, and practical obstacles of hybrid ADR models in India.

1.2. Review of Literature

*“Med-Arb Procedures by the Same Neutral (2003)”*² offers a pioneering analysis of hybrid alternative dispute resolution. It contends that even while the combination of mediation and arbitration significantly improves process efficiency, the dual role of the neutral party endangers confidentiality. In order to create and maintain neutrality, the article emphasizes the

¹ Rishabh Gandhi, *The Arb-Med-Arb Model: Shaping the Future of ADR in India*, Bar and Bench, <https://www.barandbench.com/view-point/arb-med-arb-model-shaping-future-of-adr-india>.

² Aikaterini Stergiou, *Med- Arb Procedures by the Same Neutral- Legal Challenges*, ACADEMIA (2018), https://www.academia.edu/40821125/_Med_Arb_procedures_by_the_same_neutral_Legal_challenges_.

significance of written permission and the creation of a distinct procedural separation.³

Similarly, “*Hybrid Dispute Resolution Processes and Due Process Concerns (2014)*”⁴ argues that although hybrid models are highly effective, they should be created and applied in accordance with the regulations established for the profession in order to prevent any violations of natural justice.⁵

The article “*Dispute Resolution News – Spring 2009*”⁶ examines hybrid alternative dispute resolution (ADR) practices in countries such as China and Australia. It notes that ethical and regulatory training is necessary for the successful implementation of these practices, but insists that institutional regulation and ethical training must come first.⁷

The article “*A1-Fordham Papers – Med-Arb: A More Efficient ADR Process or an Ethical Disaster? (2012)*”⁸ furthers the discussion of efficiency versus fairness before concluding that procedural protections are necessary for the process to be deemed trustworthy.

Ultimately, The “*Neutral Corner, Volume 2 (2018)*”⁹ calls for protective measures such informed consent, confidentiality protection, and disclosure norms among others.

1.3. Statement of Problem

Although the Indian legal system is increasingly in favor of Alternative Dispute Resolution (ADR), it still views the use of hybrid techniques such as Arbitration-Mediation (Arb-Med) and Mediation-Arbitration (Med-Arb) as extremely unclear. The Arbitration and Conciliation Act of 1996 and the Mediation Act of 2023 lack explicit statutory support, which has led to procedural ambiguity regarding important matters like enforcement, neutrality, and confidentiality. In addition, there are other problems that have almost stopped them from being used in practice. These mechanisms have the potential to speed up and simplify the legal

³ *Id.*

⁴ Yuying Zhang & Angela Ray T Abala, *Hybrid Dispute Resolution Processes and Due Process Concerns*, 4 Dispute Resolution Review, <https://drr.scholasticahq.com/api/v1/articles/140833-hybrid-dispute-resolution-processes-and-due-process-concerns.pdf>.

⁵ *Id.*

⁶ Jon Lang, *Med-Arb- An English Pesrpectivr*, 02 NYSBA New York Dispute Resolution Lawyer, <https://sccarbitrationinstitute.se/wp-content/uploads/2024/12/anja-ipp-ny-dispute-res-lawyer-fall18.pdf>.

⁷ *Id.*

⁸ Donna Ross, *Med-Arb/Arb-Med: A More Efficient ADR Process or an Invitation to a Potential Ethical Disaster?*, The Fordham Papers 2012, <https://www.donnarossdisputeresolution.com/wp-content/uploads/2012/04/A1-Fordham-Papers-Med-Arb-Ross.pdf>.

⁹ Aikaterini Stergiou, *supra* note 2.

process, but they are still constrained by operational and legal concerns, which prevents them from reaching their full potential. The primary issue is to assess the viability of hybrid alternative dispute resolution (ADR) in India by identifying the primary obstacles to its adoption and the necessary changes to establish it as a reliable and long-lasting conflict resolution process.

1.4. Research Objectives

1. How do hybrid ADR models like Med-Arb and Arb-Med align with India's existing legal framework?
2. What practical challenges affect the viability of Med-Arb and Arb-Med in India?
3. What reforms are necessary to strengthen the viability of hybrid ADR models in India?

1.5. Research Questions

1. How do hybrid ADR mechanisms such as Med-Arb and Arb-Med correspond with and fit within India's existing legal and institutional framework?
2. What are the key practical and procedural challenges affecting the implementation and effectiveness of Med-Arb and Arb-Med models in India?
3. What legal, policy, or structural reforms are required to enhance the viability and acceptance of hybrid ADR models within the Indian dispute resolution system?

1.6. Research Methodology

1. Research Method- Doctrinal Research Methodology
2. Secondary Sources- Online Articles, Books, Journals, Legal Research Papers
3. Citation Method: Bluebook- A Uniform System of Citation (20th ed.)

CHAPTER 2: THEORETICAL FRAMEWORK

2.1. Conceptual Understanding of Hybrid ADR Models

2.1.1. Introduction

The most recent statistics from the National Judicial statistics Grid shows that the backlog of pending cases in India's justice delivery system is still quite large, at over five crores. In this case, ADR procedures have been considered as a practical manner to offer prompt and affordable access to justice. “In a time of overcrowded courts, formality, and rising litigation costs, Alternative Dispute Resolution (ADR) has emerged as a workable, affordable, and flexible alternative to court-based adjudication.”¹⁰

Each of the several ADR methods- arbitration, mediation, and conciliation has advantages of its own, but as disputes become more complex, there is a need for hybrid ADR models that incorporate the best features of multiple processes. These processes “strategically integrate elements from multiple dispute resolution processes, aiming to harness their respective strengths while mitigating limitations.”¹¹

Thus, it is the procedure's creative design that combines the collaborative qualities of mediation with the authority to impose arbitration and its decisiveness.

2.1.2. Med-Arb and Arb-Med: Meaning and Structure

Among the various kinds of hybrid dispute-resolution techniques, the two prominent hybrid models are Mediation-Arbitration (Med-Arb) and Arbitration-Mediation (Arb-Med). In Med-Arb, mediation is the initial attempt by the disputants to find a solution. If they fail to reach agreement, “the process transitions into arbitration either through mutual agreement or pursuant to a pre-existing dispute-resolution clause”.¹² The primary factor sustaining this approach is the involvement of the same neutral or a newly appointed arbitrator.

This order becomes the opposite in the Arb-Med model. The first step is arbitration, in which

¹⁰ Aastha Gaddekar, *Hybrid ADR Mechanisms: Managing Neutrality, Consent and Confidentiality*, The Amikus Qria, <https://theamikusqriae.com/hybrid-adr-mechanisms-managing-neutrality-consent-and-confidentiality/>.

¹¹ Dr Aparna Sreekumar, *Hybrid ADR Mechanisms*, 01 Edulogic International Journal for Multi Disciplinary Research (2025), https://www.researchgate.net/publication/393059745_Hybrid_ADR_Mechanisms.

¹² *Id.*

a confidential arbitral award is drafted. Mediation is conducted by the arbitrator or another impartial party prior to the announcement of the award. The award is void in the event of a settlement; otherwise, the sealed decision becomes final and enforceable.¹³ The plan “evens out the demand for speedy processes with the protection of impartiality by putting the mediation and arbitral decision-making stages apart”.¹⁴

These techniques seek to balance the finality and enforcement of arbitration with the voluntary character of mediation. However, if the same impartial individual oversees both stages, they do present a neutrality difficulty. As one study cautions, “the conduct of combining arbitration and mediation into a single hybrid process when the role of mediator and arbitrator is taken by the same neutral person raises a controversy of a colossal magnitude”¹⁵.

In the global context, several nations have adopted hybrid alternative dispute resolution. For instance, the Arbitration-Mediation-Arbitration (AMA) Protocol has been adopted in Singapore, where the Singapore International Arbitration Centre (SIAC) and the Singapore International Mediation Centre (SIMC) operate, and the China International Economic and Trade Arbitration Commission (CIETAC) permits the parties to mediate during the arbitration process.¹⁶

2.1.3. Relevance in the Indian Context

For the Indian judicial system, which is beset by protracted delays and overburdened courts, hybrid alternative dispute resolution procedures are highly important. Despite not saying so directly, one article notes that the Arbitration and Conciliation Act, 1996, which forms the basis of India's legal framework for ADR, supports the AMA model.¹⁷

The hybrid paradigm aligns with India's long-standing conciliatory culture, which is still evident in community-based dispute resolution and panchayats. This traditional culture and enforceable results appropriate for institutional and commercial disputes are combined in the contemporary hybrid ADR process. The VIA Mediation Centre notes that “the interaction of mediation and arbitration in India gives rise to a hybrid mechanism that deals with their

¹³ Yijia Lu, *Economic Analysis of Hybrid Mechanisms: Arb-Med and Med-Arb as Arbitral Innovations*, NYU Law and Economic Research Paper No. 20-26 (2010), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3442181#.

¹⁴ Yuying Zhang and Angela Ray T Abala, *supra* note 4.

¹⁵ Ross, *supra* note 8.

¹⁶ Rishabh Gandhi, *supra* note 1.

¹⁷ *Id.*

respective drawbacks while combining the advantages of both, autonomy of the parties and enforceability.”¹⁸

Furthermore, online dispute resolution (ODR) and business facilitation policies are a natural fit for hybrid ADR. Since India is still in the early stages of adoption, all of these innovations between standard Med-Arb and Arb-Med-Arb have attracted particular attention there¹⁹. Thus, these models offer an opportunity for a trustworthy, efficient, and responsive substitute for the courts in India's evolving legal system.

2.2. Legal Framework in India

2.2.1. Statutory Basis

The Code of Civil Procedure, 1908 (CPC), the Mediation Act, 2023, and the Arbitration and Conciliation Act, 1996 (ACA) serve as the key pillars of India's statutory framework governing ADR. Arbitral tribunals are authorized by Section 30 of the ACA to “recommend to the parties the use of mediation or conciliation as a means of settling the case.”²⁰ Furthermore, as stated in Section 31, “a settlement reached can be filed as an arbitral award, thus granting it the same legal enforceability as awards given after arbitration.”²¹

This system is reinforced by the Mediation Act of 2023, which requires pre-litigation mediation for certain conflicts and grants mediated settlements “the same authority as court decrees.”²² In contrast, hybrid mechanisms are not expressly covered by the Act. It “does not refer to Part III of the 1996 Act nor does it imply the inclusion of specific provisions regarding mediation.”²³

Therefore, even though ADR is encouraged by Indian law, Med-Arb and Arb-Med are forced to rely mostly on contractual permission under Section 7 of the ACA because the law says nothing about the procedural changes between mediation and arbitration.

¹⁸ FANUEL RUDI, *The Interplay between Mediation and Arbitration in India: A Hybrid Approach*, VIA Mediation & Arbitration Centre, <https://viamediationcentre.org/readnews/MTUyNg==/The-Interplay-between-Mediation-and-Arbitration-in-India-A-Hybrid-Approach>.

¹⁹ Aastha Gadekar, *supra* note 10.

²⁰ Rishabh Gandhi, *supra* note 1.

²¹ *Id.*

²² *Id.*

²³ Divya Choudhary, *The Intersection of Mediation and Arbitration in India*, LawArticle, <https://lawarticle.in/the-intersection-of-mediation-and-arbitration-in-india/>.

2.2.2. Judicial Perspective

The Indian judiciary has consistently endorsed Alternative Dispute Resolution (ADR) as a crucial tool for delivering prompt and economical justice. In *Salem Advocate Bar Association v. Union of India*,²⁴ the Supreme Court upheld the 1908 Code of Civil Procedure and ruled that courts must support arbitration, conciliation, and mediation as effective dispute resolution procedures. Additionally, according to Article 21 of the Constitution, the ADR procedures comply with the need for prompt justice.²⁵²⁶

The legal validity of hybrid modes such as Med-Arb and Arb-Med is still unclear, despite the courts' encouragement. Regarding the procedural validity and enforceability of such hybrid ADR proceedings, Indian courts have not gone so far as to express their opinions.²⁷ However, the court's reasoning about party autonomy and amicable conflict resolution provides solid backing for this argument.

The general judicial position has been one of caution with a foundation of support, recognizing the importance of flexible and amicable settlement procedures while simultaneously cautioning about the potential loss of neutrality “when the same neutral acts as both mediator and arbitrator without informed consent.”²⁸ Comparing the experience of countries like Singapore and Australia, which has been frequently mentioned in Indian literature, shows that the establishment of clear institutional and legislative frameworks, such as the SIAC–SIMC Arb-Med-Arb Protocol, facilitates the courts’ approval of hybrids.²⁹

Therefore, even though hybrid awards have not yet been validated, it can be said that Indian courts are beginning to show interest in adopting such models after statutory clarity and procedural safeguards are established. This is particularly evident in their interpretations of ADR statutes and their emphasis on party consent.

²⁴ *Salem Advocate Bar Association v. Union of India*, (2003) 1 SCC 49.

²⁵ *Id.*

²⁶ Aastha Gadekar, *supra* note 10.

²⁷ Divya Choudhary, *supra* note 23.

²⁸ Aarohi Mishra, *Global Pathways to Hybrid ADR: Med-Arb's Evolution, Challenges, and Promise in Australia, India, and Beyond*, Australian Disputes Centre, <https://disputescentre.com.au/global-pathways-to-hybrid-adr/>.

²⁹ Rishabh Gandhi, *supra* note 1.

2.2.3. Alignment with Fundamental Legal Principles

The use of hybrid alternative dispute resolution (ADR) in India would be centered on the concepts of informed consent, confidentiality, and natural justice. One person serving as both an arbitrator and mediator raises the primary concern because “the neutral may have access to sensitive information disclosed during the mediation phase, potentially influencing the final award.”³⁰ Similarly, it has been observed that “the neutrality of the final award may be impacted by the confidential information obtained in private caucuses when a mediator transitions into an arbitrator.”³¹

CHAPTER 3: PRACTICAL CHALLENGES IN IMPLEMENTATION

3.1. Procedural Uncertainty

In India, a significant obstacle for hybrid ADR systems is the absence of explicit procedural guidelines. Although the 1996 Arbitration and Conciliation Act permits arbitration boards to assist in resolving conflicts, it “does not give any indication of how such processes are to be conducted or moved through.”³² Particularly when confidentiality and impartiality are at stake, this ambiguity calls into question whether a mediator can legitimately serve in lieu of an arbitrator without specifically consenting through contract conditions.

The absence of a unified set of institutional regulations aggravates the issue. The haphazardly mixed ADR environment of India simply creates legal confusion because there are no appropriate legislation or institutional regulations guiding the mediation and arbitration process at the changeover point.³³ The only contractual drafts available to parties and neutrals for assistance increase the likelihood that the hybrid awards will be contested on the grounds of due process breaches.

3.2. Neutrality and Confidentiality Concerns

3.2.1. Risks in Dual-Role Proceedings

There are significant ethical and procedural dangers when the same neutral party acts as both

³⁰ Aarohi Mishra, *supra* note 28.

³¹ Jon Lang, *supra* note 6.

³² Divya Choudhary, *supra* note 23.

³³ Aastha Gadekar, *supra* note 10.

an arbitrator and a mediator. The primary concern is that the mediator gains access to the arbitrator's information through the private sessions, which are the primary component of the consensual process, and that the arbitrator would not have otherwise been given this information³⁴.

This problem, sometimes known as the 'dual-role dilemma', can cause mistrust between the parties and lead to a challenge to the award on the grounds of the arbitrator's purported bias.

3.2.2. Confidentiality and Due Process

Since mediation involves private sessions, the arbitrator who has taken on the role of mediator may have biased knowledge. According to experts, "the 'switching hats' aspect... raises concerns about the neutral's role and impartiality"³⁵. The concepts of due process may not be followed if appropriate safeguards are not in place, such as sealed documents, signed consent, or the division of mediation and arbitration stages.³⁶

3.2.3. Absence of Ethical Standards

India lacks ethical standards that govern mediators who go on to serve as arbitrators, unlike Singapore or Australia. "The lack of clearly codified duties of disclosure and consent in India increases the chance of procedural invalidity"³⁷.

Neutrality and secrecy will remain the primary weaknesses in India's hybrid ADR system until such ethical codes are developed.

3.3. Institutional and Structural Barriers

3.3.1. Lack of Institutional Frameworks

Similar to CIETAC in China or the Arb-Med-Arb Protocol of SIAC-SIMC in Singapore, India does not currently have any hybrid-ADR centers dedicated to it. "The lack of qualified mediators-arbitrators with dual-role ethics training and institutional flaws hinder the

³⁴ Aikaterini Stergiou, *supra* note 2.

³⁵ Aarohi Mishra, *supra* note 28.

³⁶ Yuying Zhang and Angela Ray T Abala, *supra* note 4.

³⁷ Dr Aparna Sreekumar, *supra* note 11.

implementation of Medi-Arb in India.”³⁸

Inconsistencies arise from the lack of consistent procedural norms, and the majority of hybrid ADRs are carried out on an as-needed basis.

3.3.2. Technological Gaps and ODR Integration

In India, the Online Dispute Resolution (ODR) ecosystem still does not include hybrid models as one of its seals. “ODR is already being recognized and receiving post-pandemic attention, but hybrid mechanisms are not yet formally recognized in India's online ADR institutions.”³⁹ Many people are denied access to hybrid ADR since it is limited to physical venues due to a lack of technological integration.

3.3.3. Training and Accreditation Deficiencies

In a hybrid ADR setting, mediation requires a mediator who can both mediate and render decisions. To maintain impartiality and guarantee that the rulings are enforced, “hybrid models require distinct ethical codes and procedural guidelines.”⁴⁰

The lack of accrediting bodies in India that provide dual-role neutrals with structured accreditation has an effect on the neutrals' credibility and quality.

3.4. Socio-Cultural and Perceptual Challenges

3.4.1. Adversarial Legal Culture

These factors, which include “resistance from parties accustomed to adversarial litigation, hierarchical negotiation culture, and lack of awareness regarding hybrid ADR mechanisms restrict their adoption,” are what limit the recognition of such a third-party intervention, comprising both mediation and arbitration, in the entire litigation process.⁴¹

The Indian litigation culture is still primarily recognized as adversarial. It is nevertheless still

³⁸ FANUEL RUDI, *supra* note 18.

³⁹ Aastha Gadekar, *supra* note 10.

⁴⁰ Aishwarya Ravindra Bedre, *Evaluation of Hybrid Models of ADR: Combination of Arbitration and Mediation*, 7 International Journal of Law Management & Humanities (2024), <https://ijlmh.com/paper/evaluation-of-hybrid-models-of-adr-combination-of-arbitration-and-mediation/>.

⁴¹ Aastha Gadekar, *supra* note 10.

true that many advocates and litigants view mediation as a formality rather than a practical way to resolve their issues. “Most litigants and advocates in India still view mediation as a pre-arbitration formality rather than as an actual process of problem-solving.”⁴²

3.4.2. Awareness and Capacity Building

Professionals and the general public are not well-informed about hybrid ADR mechanisms. Mediation and arbitration are frequently taught as distinct procedures in the training that judges, attorneys, and neutral parties receive. Thus, even ADR professionals are probably not very familiar with hybrid processes from a doctrinal standpoint. To overcome the opposition and win acceptance, it is essential to support the teaching and marketing of hybrid case studies through law schools, judicial academies, and bar groups.

CHAPTER 4: REFORMS AND SUGGESTIONS

Although India's evolving legal landscape offers a strong foundation for alternative dispute resolution (ADR), it does not directly allow hybrid processes like Med-Arb and Arb-Med to be used. A combination of institutional, judicial, ethical, and legislative reforms would be needed to put these procedures into place. “If the areas of neutrality, consent, and confidentiality are properly protected, the hybrid ADR model can be a great help in providing a structured and at the same time flexible way of resolving disputes in India.”⁴³

4.1. Legislative Clarification and Statutory Recognition

Since neither the Arbitration and Conciliation Act of 1996 nor the Mediation Act of 2023 define hybrid processes, hybrid systems now operate in India within the basic guidelines of these laws. Although the 1996 Act provides “no procedural framework for the conversion of mediation outcomes into arbitral awards,” it does permit tribunals to assist parties in reaching settlements under Section 30.⁴⁴ The same is true with the 2023 Mediation Act, which encourages mediated agreements but says nothing about the transition from mediation to arbitration.

⁴² FANUEL RUDI, *supra* note 18.

⁴³ Aastha Gaddekar, *supra* note 10.

⁴⁴ Divya Choudhary, *supra* note 23.

It would be prudent to pass a legislation amendment that accepts Med-Arb and Arb-Med in order to address this issue. Since it outlines every step and the parties' consent in detail, the AMA Protocol, which is utilized in Singapore, may serve as a procedural model.⁴⁵ This is also true of Indonesia's CIETAC Med-Arb framework, which combines mediation and arbitration through institutional mechanisms to address both the flexibility and enforceability issues.⁴⁶

By adopting such models into Indian law, ambiguity will be eliminated, hybrid awards will become lawful, and India's ADR system will be on a level with other countries.

4.2. Institutional Strengthening and Model Frameworks

For hybrid ADRs to function effectively, institutional setup and policies must support them. There are currently no hybrid-ADR institutions in India that have jurisdiction over widespread, disjointed activities. "India's Med-Arb implementation faces institutional flaws and a shortage of competent mediators and arbitrators who have not received specialized training in dual-role ethics."⁴⁷

The creation of hybrid branches within already-existing organizations, like ICADR or the Indian Institute of Arbitration and Mediation (IIAM), could greatly aid with the aforementioned problems. These centers must establish standard procedural guidelines that specify precisely when and how a mediator can act as an arbitrator as well as how mediation agreements can be implemented as arbitral decisions.

Integration of technology is yet another crucial element. "Hybrid setups have not yet been formally accepted in the online ADR institutions of India, despite the fact that ODR has gained attention since the pandemic."⁴⁸ The incorporation of hybrid models into India's Online Dispute Resolution (ODR) systems would increase accessibility, particularly for cross-border and low-value cases.

4.3. Safeguarding Neutrality, Confidentiality, and Party Autonomy

The primary determinants of the hybrid ADR's sustainability are the parties' autonomy and

⁴⁵ Rishabh Gandhi, *supra* note 1.

⁴⁶ Aarohi Mishra, *supra* note 28.

⁴⁷ FANUEL RUDI, *supra* note 18.

⁴⁸ Aastha Gadekar, *supra* note 10.

impartiality. One of the biggest concerns is that the “switching hats” scenario calls into doubt the impartial party's impartiality and duty⁴⁹. To address this issue, the procedure should be changed to include moral principles, which would require:

- Before an arbitrator is chosen to serve as a mediator, the parties must provide their written, informed consent.
- Documentation for mediation and arbitration will be kept separate, and caucus talks will remain confidential.
- Neutrals are required to reveal any sensitive information that could affect the arbitral ruling.

As said, “in order to maintain neutrality and make enforcement easier, hybrid models require distinct ethical codes and procedural guidelines.”⁵⁰ These changes would make it possible to reap the rewards of hybrid ADR's efficient and equitable aspects.

4.4. Learning from International Best Practices

International jurisdictions impart significant lessons to India. An excellent illustration of changing the paradigm of conflict resolution is Singapore's AMA Protocol, which successfully bridges mediation and arbitration by instituting structured consent, confidentiality clauses, and enforceable results.⁵¹ An example of institutional integration is the CIETAC Med-Arb system in China, where mediators can support arbitrators without jeopardizing due process.⁵²

Australia's approach emphasizes transparency and voluntary involvement by allowing Med-Arb only with each party's express approval⁵³. It would ensure impartiality and stop the arbitration rulings from being contested on the basis of prejudice or procedural flaws if similar procedural protections were included into Indian institutions.

4.5. Judicial and Policy Support

For hybrid ADR to be recognized, judicial permission is crucial. Indian courts have

⁴⁹ AaroHi Mishra, *supra* note 28.

⁵⁰ Aishwarya Ravindra Bedre, *supra* note 40.

⁵¹ Rishabh Gandhi, *supra* note 1.

⁵² AaroHi Mishra, *supra* note 28.

⁵³ Rishabh Gandhi, *supra* note 1.

consistently supported alternative dispute resolution (ADR) through their findings in instances such as Salem Advocate Bar Association v. Union of India, which at one point held that courts should encourage and support mediation and conciliation in order to reduce the number of ongoing cases.⁵⁴

However, the courts did not adopt the position that fairness and impartiality must be mentioned in integrated processes. Scholars noted that while the Arbitration and Conciliation Act of 1996, in particular, supports the AMA model, it makes no explicit reference to it.⁵⁵ However, the legal recognition of hybrid clauses, primarily those that are drafted with ethical considerations and participation would promote their wider usage.

By incorporating hybrid ADR into their policies for government contracts, public procurement, and commercial commerce, the government organizations such as NITI Aayog and NALSA could also contribute to the cause and set the standard for policy.

4.6. Capacity-Building and Awareness Initiatives

In addition to legal reform, India requires a shift in professional and cultural norms. “The primary causes of the limited use of hybrid ADR mechanisms are users of adversarial litigation, hierarchical negotiation culture, and ignorance of these mechanisms.”⁵⁶

Future practitioners would become familiar with hybrid ADR if it were incorporated into the evolving process in law schools, judicial academies, and bar association training. In addition to strengthening their procedural dependability and ethical competency, mediator-arbitrators might benefit from regular professional training and licensing.⁵⁷

CHAPTER 5: CONCLUSION

The strengths of arbitration and mediation are combined in hybrid alternative dispute resolution (ADR) techniques like arbitration-mediation (Arb-Med) and mediation-arbitration (Med-Arb). These systems can offer a very efficient judicial system that is both prompt and proactive in India, where the courts are still beset by protracted waiting periods. They are nonetheless

⁵⁴ Aastha Gadekar, *supra* note 10.

⁵⁵ Rishabh Gandhi, *supra* note 1.

⁵⁶ Aastha Gadekar, *supra* note 10.

⁵⁷ FANUEL RUDI, *supra* note 18.

compatible with the needs of modern enterprises and the conventional methods of resolving conflicts, and they are distinguished by intimacy and freedom of choice.

5.1. Summary of Findings

As far as statutory recognition is concerned, however, hybrid mechanisms that “strategically combine elements from various dispute resolution procedures, vis-à-vis these processes operating with strengths and downsides” are not the Indian legal system's position.⁵⁸ Although they encourage settlement and mediation, neither the Mediation Act of 2023 nor the Arbitration and Conciliation Act of 1996, Section 30, offer a framework for hybrid proceedings.⁵⁹

In addition to supporting ADR, the judicial interpretation has been cautious when it comes to hybrid formats due to neutrality issues. “The same neutral who is both the mediator and the arbitrator, without informed consent, may compromise impartiality,”⁶⁰ the courts have noted. Although Indian courts have not yet authorized hybrid awards, their general pro-ADR stance suggests that they are amenable to doing so in the future, provided that ethical protections and statutory clarity are offered.

In India, hybrid alternative dispute resolution (ADR) has four main challenges in the modern world: ambiguous processes, concerns about neutrality and secrecy, inadequate institutional infrastructure, and a lack of awareness. “India's Med-Arb implementation is beset by institutional flaws and a shortage of competent mediators and arbitrators with dual-role ethics training.”⁶¹

5.2. Future Prospects

The following four areas need to undergo reform in order to fully realize the potential of hybrid ADR:

- **Legislative Recognition:** It is recommended that the Mediation Act of 2023 and the Arbitration and Conciliation Act of 1996 be modified to explicitly acknowledge the

⁵⁸ Dr Aparna Sreekumar, *supra* note 11.

⁵⁹ Divya Choudhary, *supra* note 23.

⁶⁰ Aarohi Mishra, *supra* note 28.

⁶¹ FANUEL RUDI, *supra* note 18.

Med-Arb and Arb-Med models and to include the protections of secrecy and consent.⁶²

- Ethical and Procedural Standards: It is important to set guidelines for getting written consent, maintaining the confidentiality of mediation records, and properly communicating sensitive information.⁶³
- Integration of Institutions and Technology: Existing ADR institutions should establish hybrid-ADR divisions, and ODR platforms should have this capability.⁶⁴
- Judicial and Policy Support: The process of establishing legitimacy and public trust will depend heavily on judicial approval and the incorporation of government policy.⁶⁵

5.3. Concluding Remarks

India's gradual but steady shift from a strict litigation system to a more collaborative and effective dispute resolution culture is exemplified by hybrid ADR methods. They are the perfect example of striking a balance between enforcement and consensus, which is essential for both local and foreign business partnerships.

The statement “hybrid mechanisms can connect mediation and arbitration by securing both enforceability and flexibility” has been made in commentary.⁶⁶ Med-Arb and Arb-Med can grow into dependable systems that support India's commitment to prompt, fair, and accessible justice with the help of a clear legislative framework, moral safeguards, and institutional readiness.

⁶² Divya Choudhary, *supra* note 23.

⁶³ Edna Sussman, *Developing an Effective Med-Arb/Arb-Med Process*, 2 The Neutral Corner (2018), https://www.finra.org/sites/default/files/publication_file/neutral-corner-volume-2-2018-0618.pdf.

⁶⁴ Aastha Gadekar, *supra* note 10.

⁶⁵ Rishabh Gandhi, *supra* note 1.

⁶⁶ Vakhtang Giorgadze, *Can Hybrid Mechanisms Bridge Gaps in Arbitration and Mediation?*, arrow down Kluwer Arbitration Blog, <https://legalblogs.wolterskluwer.com/arbitration-blog/can-hybrid-mechanisms-bridge-gaps-in-arbitration-and-mediation/>.

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