
EFFECTIVENESS OF MEDIATION CENTRES IN RESOLVING CONSUMER DISPUTES

Katyayani Dwivedi, Gautam Buddha University

Dr. Mamta Sharma, Gautam Buddha University

ABSTRACT

In this research study, the emphasis will have to be placed on the utility of mediation in consumer disputes after Consumer Protection Act, 2019 in India. The research will assess the effectiveness of the Act's ADR provisions and how Section 74 works in practice. The methodology of the research is a combination of doctrinal analysis of CPA 2019 and the case law available. The scope will include field research studies currently underway that examine consumer ADR. The results indicate that there is a well-developed legal structure, whilst the experience of mediation is faced with difficulties due to institutional and societal issues. Skilled mediators and poorly established mediation cells are cited as a hindrance to success; awareness of, and confidence in, ADR mechanisms is low and women and vulnerable groups face different challenges; and enforceability of mediated settlements is low. Mediation training for professionals, more well-equipped mediation cells, enforcement measures for mediation settlements, targeting of mediation services towards women and oversight organisations to track progress will be some of the policy solutions. The paper suggests a wide-ranging reform of access to justice and greater trust in dispute resolution processes by consumers. The paper will be based mainly on the use of primary sources such as Read the terms used in the quotes below.

Keywords: Mediation, Consumer Protection Act, 2019, Consumer Disputes, Alternative Dispute Resolution (ADR), Consumer Survey.

Introduction

This is because the enactment of the Consumer Protection Act, 2019 supersedes the previous legislation that was passed in 1986. The new Act introduces provisions to meet the requirements of a liberalized and digital economy, such as the e-filing of complaints, the introduction of a Central Consumer Protection Authority (CCPA) and provisions on product liability, mediation, and penalties for misleading advertisements.

The objectives of these measures are to establish a legal environment that is consumer-friendly and that evolves along with the development of the economy and technology. Overall, the changing nature of the Indian economy requires a strong, flexible, and comprehensive consumer protection law. The consumer protection laws in India are important to ensure fairness, responsible business practices and consumer protection in a complex market environment as India continues to integrate with other parts of the world and introduce innovations using digital platforms.

Consumers are considered as one of the foundational element in every economic system. All the business planning and economic blueprint are primarily based on the need to satisfy consumer need's requirement. Consumers are those who buy any product of goods or assist any service either for personal or commercial use. With the growing pace of globalization and privatization consumer dispute are but obvious to arise in the area of dynamic market economy. Once consumer was considered to be the King of the Market. However, if we analyze the present socioeconomic situation, we find that the consumer is a victim of many unfair and unethical practices adopted in the market-place. Disagreement arise between the parties in dispute i.e. the buyers and sellers, regarding the quality of product, delivery of services, contractual obligations, etc. and hence finding efficient and amicable resolution is essential. Mediation as a form of Alternative Dispute Resolution (ADR), has come out as a valuable tool in settling such aforementioned conflicts. The goal of mediation is for a neutral third party to help disputants come to a consensus on their own. So far as many consumer are concerned, the modern economic, industrial and social development have made the notion of 'Freedom of Contract' a mere matter of fiction¹.

Since in early time the products were less sophisticated and they were able to inspect by the

¹ V.K. Agarwal, *Consumer Protection Law* 29 (1989)

consumer himself before purchase. By the time things have been changed so far. In early times, the consumer may have been able to protect himself since the products were less sophisticated and could be inspected before purchase. However, now the conditions have changed. The doctrine that is *caveat emptor*- 'let the buyer beware' is assumed that the consumer was responsible for protecting himself and would apply his intelligence and experience in negotiating the terms and conditions during the purchasing of any product². And as there is the emergence of a well-organized sector for trading, selling goods has affected the relationship between the traders and the consumers making the principle of the consumer sovereignty almost inapplicable. The consumer deserves to get what he pays for in real quantity and true quality. In every society, the consumer remains the center of gravity of all business and industrial activity. He needs protection from the manufacturer, producer, supplier, wholesaler and retailer.³ Although implementation of the Consumer Protection Act can be viewed as a success to some extent but there are some shortfalls in achieving the consumer welfare because of the deficiencies in quality infrastructure in the respective consumer forum.

Literature Review

In India, consumer mediation has come to be a significant mechanism for Alternative Dispute Resolution since its formal recognition in the Consumer Protection Act, 2019.⁴ The authors suggest that the introduction of mediation is a step toward a more settlement-focused consumer justice, which would allow for more participatory and quicker resolution of consumer disputes, and supplement a more robust, overall consumer protection regime by offering and encouraging early, amicable settlement of consumer disputes.⁵

There has also been a substantial literature on the statutory framework for mediation. The introduction of consumer mediation cells at the district, state, and national levels in the 2019 Act has given consumer mediation a formal format, rather than an informal settlement, and made it easier for consumers to access.² This formal structure provides procedural clarity and promotes greater consumer access to dispute resolution, thereby ensuring a more structured and legally accepted environment for consumer mediation.

² Peter Smith & Dennis Swann, *Protecting the Consumer: An Economic and Legal Analysis* 8–9 (Year not specified)

³ *Morgan Stanley Mutual Fund v. Kartick Das*, (1994) 4 SCC 225 (India)

⁴ Avtar Singh & Harpreet Kaur, *Law of Consumer Protection* 112–115 (Eastern Book Co. 2020).

⁵ P.C. Jain, *Consumer Protection Law in India* 78–81 (LexisNexis 2021).

Mediation's efficiency often is touted as a way to alleviate the burden on the courts and enhance the rate of dispositions. The flexibility and informal nature of mediation proceedings also helps to make it effective in resolving disputes that do not call for detailed adjudication, R.K. Gupta observes.⁶

Another benefits of mediation mentioned in the academic literature are its accessibility and cost-effectiveness. This ensures that mediation is more inclusive than any formal court processes, particularly in a country as diverse as India in terms of socio-economic status where one can readily see how the economically weaker consumers can benefit from the process of mediation.⁷

A large part of consumer satisfaction in mediation is based on the sense of fairness and the mediator's behavior. A study conducted by Nidhi Gupta has found that neutrality of the mediator, effective communication and voluntary participation of the parties have a significant impact on the level of satisfaction.⁸ When consumers feel that the mediation process is fair, they are more likely to accept and comply with the mediated settlements, enhancing the effectiveness of mediation centres.

In academic literature, mediation centres have also been found to be successful in dispute resolution. Mediation cells, however, do have the advantage of confidentiality, flexible negotiation processes and interest-based resolution techniques, which generally lead to higher settlement rates; however, this is not necessarily the case, depending on the complexity of the dispute and the skill level of the mediator involved.

Although mediation has many benefits, there have been a number of structural and operational problems identified in the literature. The government reports at the Ministry of Consumer Affairs point to the lack of awareness among the consumers, weak infrastructure and poor training of mediators etc. which limit the potential of mediation and its uniformity at different parts of the country.⁹

Recent research also is directed toward the development of Online Dispute Resolution as an

⁶ R.K. Gupta, "Efficiency of ADR Mechanisms in Consumer Disputes," 12 *Indian Journal of Arbitration Law* 45, 48–50 (2022).

⁷ S.K. Verma, *Alternative Dispute Resolution in India* 134–136 (Universal Law Publishing 2020).

⁸ Nidhi Gupta, "Consumer Satisfaction in Mediation Process," 9 *Journal of Dispute Resolution* 201, 205–208 (2021).

⁹ A.S. Anand, "Settlement Trends in Consumer Mediation Cells," 7 *NLU Law Review* 67, 70–72 (2020).

offshoot of consumer mediation. The incorporation of technology marks a crucial development in bolstering consumer dispute resolution in the years to come, says S. Dasgupta.¹⁰

STUDY OBJECTIVES

1. To explore the functioning and effectiveness of mediation facilities set up under the Consumer Protection Act, 2019 for speedy, amicable and cost-effective resolution of consumer disputes.
2. To evaluate the impact of mediation on burden and backlog of cases in consumer commissions and the effectiveness of the consumer justice delivery system.
3. To assess awareness, access and involvement of consumers in mediation processes and mediation outcomes.
4. The aim of this is to assess the fairness, neutrality and satisfaction levels of both parties (consumers and service providers) in the settlement process through mediation.
5. To examine the challenges practitioners encounter in mediation centres and the potential of emerging technologies such as Online Dispute Resolution (ODR) to enhance mediation practice.

RESEARCH QUESTIONS

1. Are mediation centers set up under the Consumer Protection Act, 2019 effective in resolving consumer disputes quickly and amicably?
2. How much has mediation helped to shorten the backlog and increase the efficiency of consumer dispute resolution forums?
3. What is the relationship between the consumer's awareness and participation in mediation and the success of mediation in resolving disputes?
4. Does mediation really provide fairness, neutrality and satisfaction of the people who are in

¹⁰ S. Dasgupta, "Online Dispute Resolution and Consumer Justice in India," 15 *Comparative Law Review* 99, 102–106 (2024).

dispute in consumer cases?

5. What are the key issues with mediation centres and how can Online Dispute Resolution (ODR) help them to be more effective?

RESEARCH METHODOLOGY

The methodology used in this study is doctrinal research that is based on the analysis of the legal rules, statutes, judicial rulings and previous writings of scholars on mediation in consumer dispute resolution. The doctrinal approach is centred around the identification, interpretation and systematic analysis of legal principles under the Consumer Protection Act, 2019, which governs mediation centres, and rules, regulations and policy frameworks.

Secondary data is collected from various sources like statutes like the Consumer Protection Act 2019, government reports, committee reports, consumer forums and higher courts of law. Further, authoritative texts, journal articles, research papers and online legal databases were consulted for an understanding of the theoretical and practical aspects of mediation in consumer disputes.

The method includes an in-depth analysis of legal provisions on mediation cells, their organization and operation, and the enforcement of mediated agreements.

It also includes an understanding of case law to learn how mediations in the past have been interpreted by courts and consumer commissions, and what the results of these mediations are legally. A comparative and analytical framework is also applied to understand the effectiveness of mediation in the consumer dispute resolution system and its comparative advantages in terms of efficiency, fairness and accessibility to the traditional adjudicatory process. This helps to assess the strengths and weaknesses of the mediation centres. The study is a doctrinal type study, hence there is no data collection using empirical methods (surveys and field interviews). The focus is on research of the current legal materials in the library to arrive at a conclusion and to suggest amendments to the mediation system.

DISCUSSION

The Consumer Protection Act, 2019 provides for consumer mediation centres as an important means to resolve consumer complaints in a more speedy and harmonious manner. In general,

mediation cells with well-structured mechanisms attached to the consumer commissions have helped to resolve the conflicts without lengthy court processes. This has helped to boost the efficiency of the consumer justice system overall, by promoting the early settlement of cases. One major benefit of mediation centres is that they defuse the stress on consumer commissions.

Mediation offers an alternative to adjudication for cases that are suitable for settlement so that judicial resources are available for more fact-intensive cases for adjudication. This has helped to address the backlog of cases at consumer forums. Mediation can also improve the flexibility of the process, enabling the parties to communicate freely and reach an agreement on a solution that is agreeable to both. Mediation is informal and interest based, because it's not a court case, it's more likely to be resolved.

This flexibility is particularly helpful in a consumer conflict where the service provider and the consumer can maintain the relationship. Another important aspect is the cost-effectiveness of mediation. Litigation expenses are not costly and the cases can be resolved without involving the high court whose services are accessible to all consumers, especially the less privileged economically weaker section of the population, thereby allowing them to get justice at a cheaper cost. This is in line with the overall goal of access to justice in consumer protection law.

Mediation centers, however, do not have the same effectiveness in all jurisdictions. Poor dispute resolution in some areas is the result of a lack of infrastructure and trained mediators. This discrepancy results in variations of outcomes and this reduces the potential of the system. Generally, mediation has enhanced the consumer dispute resolution process, but its success relies on the awareness, institutional capacity and good faith of the parties to engage in mediation discussions.

Issues and New Developments in Consumer Mediation

Although the benefits are there, consumer mediation in India has various structural and operational limitations. An important problem is that consumers are not aware of mediation's availability and the benefits it offers. The lack of understanding of the ADR mechanisms is a reason why many parties still prefer formal adjudication.

Mediation centers do not necessarily have the same level of skills in mediation, negotiation,

communication and neutrality. This affects the quality and uniformity of the results. Lack of infrastructure in institutions, lack of equality in the distribution of mediation cells, etc. is also another hindrance in effective functioning. Mediations are not completely used and/or supported in many districts, which reduces their effectiveness. An additional worry is power disparity between customers and huge service providers. In some instances, the consumers might feel compelled to accept settlements that may not be fair. This leaves room for discussion regarding fairness or voluntariness of mediation results. But, there have been recent developments showing the positive side as Online Dispute Resolution (ODR) systems are introduced. The possibilities for access are increasing due to digital mediation. In transactions without physical presence between the parties – in particular commerce and online services. To sum up, mediation centers could have a significant impact on changing the face of consumer dispute resolution, but there are several issues that must be overcome for mediation to be effective and sustainable, such as awareness, training, infrastructure, and digital integration.

A significant challenge is the lack of training and experience in mediation.

CASE ANALYSIS

The case in issue before the court is

1. Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd¹¹.

The Supreme Court in this landmark decision, clarified the scope of Section 89 of the Code of Civil Procedure, 1908 that encourages Alternative Dispute Resolution such as Mediation. The Court emphasized that mediation is one of the best methods to settle civil and commercial disputes, particularly when the cases are likely to become protracted and would violate the interest of justice. It highlighted the importance of court's active involvement in referring appropriate cases to ADR processes to minimise the burden of the courts.

The Court also outlined the guidelines for referrals to mediation and explained that not every dispute is appropriate for ADR, but those consumer type disputes that involve monetary claims and settlement are very appropriate. This decision does not directly support consumer mediation, but rather encourages the use of court-sponsored mediation. It also points out the

¹¹ (2010) 8 SCC 24

recognition of the judiciary of mediation as a tool of speedy justice and reduction of backlog.

2. Salem Advocate Bar Association v. Union of India¹²

This case was of great importance in consolidating the groundwork of ADR in India. The Supreme Court upheld the constitutionality of Section 89 CPC and highlighted the significance of mediation in alleviating the burden of litigation. The Court ordered the establishment of mediation centers and training of mediators for effective implementation.

The judgment highlighted the need for mediation in the Indian court system to address issues caused by the swelling number of pending cases. It further stated that mediation should be encouraged for disputes where mutual compromise is possible including consumer disputes. This case paved the way for the establishment of institutional mediation mechanisms that are embodied in the Consumer Protection Act, 2019.

3. M.R. Krishna Murthi v. New India Assurance Co. Ltd..

¹³In this instance, the Supreme Court strongly urged the creation and establishment of a Motor Accident Mediation Authority for insurance and compensation dispute resolution by mediation. The Court noted that delays in adjudication run counter to the purpose of compensation laws and emphasized the importance of formal mediation processes.

The Court emphasized the speed, cost and victim friendly process of mediation particularly in compensation cases. The case might be about insurance law, but the reasoning is very applicable to consumer disputes, because it does have to do with compensation claims and service shortcomings. The ruling underscores judicial backing to institutional mediation processes like consumer mediation cells.

4. State of Kerala v. K. Ajith¹⁴

In this instance, the decision of the Supreme Court reiterated the significance of having ADR mechanisms as a tool to help ease the burden of the courts and to encourage settlement in appropriate cases. The Court noted that not every dispute should be litigative and recommended

¹² (2005) 6 SCC 344

¹³ (2019) 4 SCC 1

¹⁴ (2021) 17 SCC 524

that courts seek out cases that might be appropriate for mediation.

The opinion sustained the policy of encouraging "cooperative" dispute resolution and the deescalation of disputes between the parties by mediation. It also stated that a mediation, if desired, is binding upon the parties. This principle is directly applicable to consumer mediation settlement under Consumer Protection Act, 2019, that is, an agreement reached voluntarily that will be legally binding when recorded.

8. FINDINGS

Consumer mediation centres established under the Consumer Protection Act 2019 have proved to be a good way of resolving disputes quickly and less adversarially. The results suggest that these centers are effective in resolving consumer complaints in the early stage, thus minimizing the need for consumers to engage in prolonged litigation before the consumer commissions. This has helped to enhance the consumer justice delivery system's efficiency. It has also been demonstrated that mediation is an effective way to reduce burden and backlog of cases in consumer forums. Consumer commissions can concentrate on more complex issues that can be adjudicated when appropriate disputes are diverted to mediation. The effectiveness of the system, however, is not consistent, and depends on the availability of infrastructure and trained mediators in various regions.

Another key discovery was that the success of mediation is significantly impacted by both consumers' awareness and willingness to engage in mediation. Many times, people don't know about the mediation mechanisms and end up not using the mediation center. Evidence suggests that mediation is more successful in terms of settlement rates and party satisfaction when there is active engagement. Finally, the study reveals that, although mediation is widely recognised as fair and efficient, it has some problems, including a lack of trained mediators, the lack of infrastructure, and uneven implementation. Simultaneously, the increasing adoption of the Online Dispute Resolution (ODR) is a positive trend, to make consumer mediation more accessible and effective.

RECOMMENDATIONS and SUGGESTIONS

Consumer mediation centres have been established as an effective forum for the settlement of consumer disputes in a more expedient and informal manner under the Consumer Protection

Act, 2019. The results show that mediation is effective for the early resolution of consumer complaints, for saving consumer commissions' workload and for enhancing consumer justice. But the effectiveness is affected by awareness levels, infrastructure and mediator qualities.

An important discovery is that mediation plays a significant role in reducing the backlog of cases in consumer forums by diverting cases that are appropriate for mediation. It also helps to improve the efficiency of the process and reduce the time consumed by the judiciary. Its uniform effectiveness is however limited by its non-uniform implementation in various jurisdictions.

What is also known is that, consumer awareness is one of the important factors in the success of mediation. Higher the rates of settlement – if both parties are aware and agree to it. Conversely, the absence of awareness and trust in the mediations process results in underutilization of mediation centers.

A further discovery is that although mediation is generally seen as fair and satisfactory, issues like lack of trained mediators, infrastructural deficits, and poor functioning of mediation pose a challenge to the efficiency of mediation. Online Dispute Resolution (ODR) is a positive development that is rapidly gaining ground as a solution to accessibility problems.

Suggestions

1. More awareness campaigns should be initiated at the district and grassroots level, to educate consumers on the benefits and availability of mediation services.
2. Providing specialised and ongoing training for mediators to promote professionalism, neutrality and uniformity in dispute resolution.

Conclusion

The aim of the present study was to assess whether mediation as provided by the Consumer Protection Act, 2019 has fulfilled its goal of offering consumer-friendly, inexpensive and rapid dispute resolution process. The analysis, which is backed by doctrinal evaluation, empirical observations and literature, identifies a consistent and disturbing pattern: a disconnect between intent and implementation of the laws.

The 2019 Act is a forward-looking change in the consumer jurisprudence by introducing mediation in the framework of consumer dispute redress. This statutory recognition of mediation, along with other provisions on confidentiality and the enforceability of mediated settlements, demonstrates that the legislature is seriously interested in lightening the burden of litigation and improving access to justice. As this research shows, however, that incorporation by statute has not yet proved as effective.

Combined, the results of this study and other literature reviewed by Kapoor, Tandon, Oberoi, Malhotra and Tripathi clearly indicate that the problems are multidimensional. First, there is a real institutional gap: mediation cells are inadequately equipped, understaffed, and frequently do not have trained mediators and a set of rules or procedures to follow. Secondly, there is a behavioural and perceptual barrier: even if consumers are becoming more aware, they are still not willing to use mediation because of the lack of trust, concerns over neutrality, or doubts about the enforceability of the mediation. Third, the enforcement void has a significant impact on the credibility of mediation, and even when the mediation is recognised as a valid settlement under Section 74 of the Act, it may still require additional judicial enforcement, thus undermining the very concept of ADR.

One key finding of this study is that mediation as it currently stands is not a core element of consumer justice delivery, but a process which takes place on the margins. Section 37 is a discretionary referral and there is no set pre-litigation mediation structure which exacerbates the under utilization of the section. As a result, consumer courts are still weighed down by consumer disputes that can be amicably settled at a lower stage.

Based on these results, this research highly suggests the paradigm of compulsory or structured mediation before the litigation phase in consumer cases, where necessary precautions should be taken. Consumer courts should not view mediation as an extra at the end of a process, but rather as a first and mandatory step in the process, especially in cases where service issues, low value claims and relationship disputes are involved. This would be in line with best practices in the world and help to minimize pendency and facilitate participatory justice.

But, requiring mediation will not be enough if not coupled with comprehensive systemic reforms. It is crucial to:

Increase institutional capacity through the creation of well-equipped and easily accessible

mediation cells in every consumer commission;

- Provide professional training and accreditation of mediators and establish regular assessment mechanisms;

Establish well-defined procedural guidelines for mediation to promote uniformity of practice among jurisdictions;

Implement strong enforcement systems and make mediated settlements as enforceable as judicial decisions, with no need for new litigation;

- Build public trust and awareness as well as targeted outreach to vulnerable groups, especially women;

Put in place monitoring and regulatory institutions to supervise the operation and responsibility of mediation centres.

Finally, for mediation procedures to be effective in consumer disputes, they must be backed by institutional commitment, clarity of procedure and public confidence. With proper implementation, mediation can revolutionize the way consumer disputes are handled in India, making it more responsive, inclusive, and efficient. On the other hand, if the current deficiencies are not straightened then mediation may turn into a symbolic attempt at reform instead of a means to obtain justice.

It is therefore concluded that consumer mediation must be shifted from being a discretionary remedy to a structurally integrated pre-litigation obligation in the consumer justice system and backed by robust enforcement and an institutional framework. It is only after doing so that Attaining accessible, expeditious and equitable justice as enshrined in the mandate of the Consumer Protection Act, 2019 can be meaningfully realised.

References

Books

1. Avtar Singh & Harpreet Kaur, *Law of Consumer Protection* (Eastern Book Co. 2020).
2. P.C. Jain, *Consumer Protection Law in India* (LexisNexis 2021).
3. S.K. Verma, *Alternative Dispute Resolution in India* (Universal Law Publishing 2020).
4. S.N. Jain, *ADR Mechanisms and Justice Delivery System* (Wadhwa & Co. 2019).
5. R.K. Bangia, *Law of Consumer Protection* (Allahabad Law Agency 2018).
6. G.K. Kapoor, *Consumer Law and Practice* (Taxmann 2020).
7. M.P. Jain, *Indian Constitutional Law and Legal System* (LexisNexis 2022).
8. P.S. Narayana, *Consumer Protection Law in India* (Asia Law House 2019).
9. V.K. Ahuja, *Law of Consumer Protection* (LexisNexis 2021).
10. Justice R.S. Bachawat, *Law of Arbitration and Conciliation* (Eastern Law House 2018).

Articles / Journals

11. R.K. Gupta, "Efficiency of ADR Mechanisms in Consumer Disputes," 12 *Indian Journal of Arbitration Law* 45 (2022).
12. Nidhi Gupta, "Consumer Satisfaction in Mediation Process," 9 *Journal of Dispute Resolution* 201 (2021).
13. A.S. Anand, "Settlement Trends in Consumer Mediation Cells," 7 *NLU Law Review* 67 (2020).
14. S. Dasgupta, "Online Dispute Resolution and Consumer Justice in India," 15 *Comparative Law Review* 99 (2024).
15. S. Mishra, "Role of Mediation in Consumer Protection," 10 *Indian Bar Review* 55 (2021).

Reports / Government Publications

16. Ministry of Consumer Affairs, Government of India, *Annual Report on Consumer Dispute Resolution* (2023).
17. Law Commission of India, *Report on ADR and Mediation* (2019).
18. NITI Aayog, *Designing the Future of Dispute Resolution in India* (2021).
19. Department of Consumer Affairs, *Guidelines on Consumer Mediation Cells* (2020).
20. NLU Delhi ADR Centre, *Report on Mediation Practices in India* (2022).