



Himachal Pradesh National Law University, Shimla

in collaboration with

International Arbitration and Mediation Centre, Hyderabad

in association with

Indian Institute of Arbitration and Management &

Asian Institute of Alternative Dispute Resolution

Presents

INTERNATIONAL CONFERENCE

ON

**FUTURE OF ALTERNATIVE
DISPUTE RESOLUTION:
CONTEMPORARY ISSUES AND
CHALLENGES**

23rd-24th April 2022

VICE-CHANCELLOR'S MESSAGE



HIMACHAL PRADESH NATIONAL LAW UNIVERSITY, SHIMLA
[Established under the Himachal Pradesh National Law University, Act No.16 of 2016]

Professor (Dr.) Nishtha Jaswal
(LL.M., Ph.D.)
Vice-Chancellor

No.: HPNLU/VCO/806
Dated: 21/04/2022

FOREWORD MESSAGE

It is a matter of immense happiness for me that the team of the Centre for Alternative Dispute Resolution and Professional Skills (CADR), Himachal Pradesh National Law University, Shimla (HPNLU) is organising the International Conference on "Future of Alternative Dispute Resolution: Contemporary Issues and Challenges". Amidst the ongoing pandemic, HPNLU has been at the forefront of using digital platforms to raise awareness about issues as far spread as Fundamental Duties, Reproductive Rights of Women, Human Rights and Access to Justice etc.

The CADR was established with the prime objective to promote research in the field of dispute resolution mechanisms in India. The Centre aims to provide a platform for interaction between professionals in the field and the students. I have watched the progress of the CADR for more than a year. I welcome the chance to join in the celebration of this important milestone. This conference includes selected papers of various scholars across the field of ADR, which are presented in the flagship event, held on the 23rd and 24th of April, 2022. The international conference provides students with platforms and opportunities to nurture the future members of the Indian Legal Fraternity by enabling them to face the dynamic Indian Justice System.

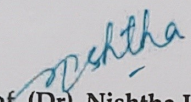
The conference features a quality submission from contributors that are selected and published through a rigorous process of blind peer review of the manuscript, collaborative editing in multiple layers, and ensured quality control by our editors. They test the submitted manuscript with a set of preliminary standards of quality and are evaluated for soundness in the arguments made by the manuscripts. The CADR team determines the manuscript's innovativeness, novelty, creativity and quality to assess its suitability for presenting at this conference.

The conference, organised by HPNLU, is going to provide opportunities for presenters on e-platform from every part of the country to present their papers and express their precious views and provide critical insights into diverse areas of Alternative Dispute Resolution. Contributors in this issue have

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contributed their works related to the development in the field of ADR, laws relating to mediation, emerging facets of arbitration and technology and contemporary ADR related issues. We hope that this conference will inspire academicians and scholars to enhance their intellect in the field of ADR and polish their unique perspectives.

I always admire the dedication and commitment to excellence of law of the team. I am deeply grateful to all the authors for their excellent works and remarkable contributions. This maiden conference would have been impossible, without the time and support of our CADR team. I take this opportunity to congratulate our Director, Dr. Santosh Kumar Sharma and his team for their efforts to bring this conference to a legal forum. I would greatly appreciate everyone involved for their shared trust and their fullest professionalism to accomplish this international conference. I hope that this flagship conference is the first in the series of enriching and intriguing events.


Prof. (Dr). Nishtha Jaswal
Vice-Chancellor
HPNLU, Shimla

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DIRECTOR'S FOREWORD



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Dated:-22-04-2022

DIRECTOR'S MESSAGE

It is a matter of great delight that the Centre for Alternative Dispute Resolution and Professional Skills (CADR), Himachal Pradesh National Law University, Shimla (HPNLU) is organising an International Conference on *“Future of Alternative Dispute Resolution: Contemporary Issues and Challenges”* on 23rd and 24th April, 2022. We have received an overwhelming response from scholars at both the National and International levels covering a range of topics in the field of Alternative Dispute Resolution (ADR). ADR is one of the most effective means to resolve and check conflicts and ensures expeditious redressal of disputes and acts as an alternative to the lengthy Court proceedings. The techniques of ADR are used widespread for effective dispute resolution and give individuals the opportunity to determine how their disputes will be resolved and are very cost-effective.

The CADR has been working incessantly to promote awareness and research in the field of ADR from the past year. We hosted our maiden edition of National Mediation Competition, 2021 and witnessed great success. We continue to expand the boundaries of the Centre and aspire to reach newer heights with each passing moment. This conference aims at providing a platform for individuals to showcase their creative skills and research in the field of ADR and present innovative solutions. We received a great response from all over the country and abroad and all the submissions for the conference went through various stages of review before getting selected.

We are indebted to our Vice-Chancellor, Prof. Dr. Nishtha Jaswal for her continued support and guidance at every stage throughout the process. I extend my heartiest gratitude to all the participants and appreciate their efforts and enthusiasm for the event. I am grateful to all the respected dignitaries who graced this conference with their presence. The hardworking and laborious team of the CADR deserves all the praise who worked day and night to turn this Conference into reality.

Regards,

Dr. Santosh Kumar Sharma

Director, Centre for ADR and Professional Skills

HPNLU, Shimla

ABOUT THE CONFERENCE

“I had learnt the practice of law. I had learnt to find out the better side of human nature and to enter men’s hearts. I realized that the true function of a lawyer was to unite parties driven a sunder.....I lost nothing thereby not even money, certainty not my soul, ” - MAHATMA GANDHI

Center for Alternative Dispute Resolution and Professional Skills (CADR) of Himachal Pradesh National Law University, Shimla (HPNLU) is organizing an International Conference (Virtual) on “FUTURE OF ALTERNATIVE DISPUTE RESOLUTION: CONTEMPORARY ISSUES AND CHALLENGES” and proudly invites keynote speakers and presenters on e-platform from every part of the country to present their paper and express their precious views on the topic and sub-theme. The conference aims to provide a platform for discussion on the Future of Alternative Dispute Resolution in the Modern World its prospects and challenges.

To trace the roots of ADR, we should look at our anthropological and sociological studies to have an idea about how early humans may have resolved disputes without the use of fists, clubs, or spear-arrows. Many of the following ways are quite different from the modern techniques of dispute resolution. Nevertheless, these modern techniques have come into existence because of these primitive ways. The process of arbitration is not alien to India.

PATRON-IN-CHIEF



Hon'ble Justice Mohammad Rafiq

**Chief Justice of Himachal Pradesh High Court and
Chancellor, HPNLU Shimla**

Hon'ble Justice Mohammad Rafiq graduated from the University of Rajasthan in the year 1980 with a B.com degree, completed his LLB. In 1984 and later an M.com from the same university in 1986. He got enrolled in the bar council of Rajasthan in 8th July, 1984. He was appointed as judge of Rajasthan high court on 15th may, 2006, working as an acting chief justice of the same for 2 terms. He was then elevated to the position of chief justice of Meghalaya high court, Odisha High Court & Madhya Pradesh High court in 2019, 2020 & 2021 respectively, before taking oath as the current chief justice of the Himachal Pradesh high court on 14th October, 2021.

PATRON



Prof. (Dr.) Nistha Jaswal

**Vice - Chancellor,
HPNLU Shimla**

Prof. (Dr.) Nistha Jaswal has 33 years of teaching and 35 years of research experience; she has published more than 50 research papers in many renowned journals. She served as Chairperson, Department of Laws, Panjab University, Chandigarh. Also served as Dean Students Welfare (Women), Panjab University, Chandigarh., Former Chairperson, Panjab University Committee Against Sexual Harassment (PUCASH). Officiated as Dean of University Instructions (DUI) [a position next to Vice-Chancellor] Panjab University, Chandigarh. She has been Awarded British Academy Visiting Professorship in 1992. She has done research at the School of Oriental and African Studies (SOAS), University of London, London (U.K.). Received University, State Government, and National Merit Scholarships.

ADVISORY COMMITTEE



Prof. (Dr.) Ajay Ranga

**Registrar,
HPNLU Shimla**

He did his school education from Jawahar Navodaya Vidyalaya Khunga Kothi, Jin , Haryana, India. He completed his B.A. (Law) LL.B. from the Department of Law, Kurukshetra University, Kurukshetra, India, and LL.M., Ph.D. from the Department of Laws, Panjab University, Chandigarh, India. Before joining HPNLU, Shimla, he was

working as Associate Professor (Law) at the University Institute of Legal Studies, Panjab University, Chandigarh (India). He teaches Criminal Law, Jurisprudence, Right to Information Law, Law and Justice in Globalising World, and Forensic Science. He has presented sixty research papers in different international, national, and regional seminars/conferences, etc.



Mr. Tariq Khan

**Registrar,
International Arbitration and Mediation Centre (IAMC),
Hyderabad.**

He is currently working as the Registrar of the International Arbitration and Mediation Centre (IAMC), Hyderabad. He is a former Partner of Advani & Co., New Delhi, which is India's oldest arbitration law firm. He is enlisted in the Forbes Legal Powerlist, 2020-2021 as one of the top individual lawyers and the youngest lawyer listed in BW (Business World) Legal 40 under 40, 2020. He has authored several books including a commentary on Indian Arbitration Law. He has been practicing as a lawyer in the Delhi High Court and has significant experience in domestic and international arbitrations, commercial disputes, writs, MSME disputes, Insolvency & Bankruptcy cases.



Ms. Iram Majid

**Director,
Indian Institute of Arbitration & Mediation**

She is a legal professional with experience of 16+ years in handling wide range of criminal, matrimonial, civil, commercial, banking and finance matters cases inside the court as Advocate and outside the court as Mediator. She is the Director of Indian Institute of Arbitration & Mediation (IIAM) and an IMI Certified Mediator. She is certified for International Business Negotiation and as Accredited Mediator from IIAM India. She is a mediator enlisted on the panel of Delhi High Court Mediation Centre SAMADHAN, as an Arbitrator with the Delhi International Arbitration Centre, Delhi High Court, as a mediator and arbitrator with the Indian Institute of Arbitration & Mediation (IIAM). She is the Secretary General of International Federal of Mediators and a faculty of IIAM. She is a Member of CIARB UK and member of many international organizations including the Young Singapore International Arbitration Centre, Chartered Institute of Arbitration, UK.

ABOUT THE PANELISTS



Dr. Lalkumar Somarajan

Legal Advisor, Wade Adams

He has over 36 years of diverse experience in the fields of Strategic Management, Corporate Laws, International Contract Administration and Human Resources Management. He holds a multifaceted career with vast experience in international business management & legal risk management exposure into various multi-national corporate houses.

He is currently working for an MNC as Legal Advisor & Admin Manager (Director Level). His areas of specialization are ADR (Arbitration, Mediation and Negotiation), Corporate Laws, Military laws, Immigration laws, International Commercial Contracts, Middle East Labour & Commercial Laws, Contractual issues of the Construction industry, Legal Risk Assessment and Crisis Management among other things. He is qualified and empaneled Independent Director of the Ministry of Corporate Affairs (with IICA). He is currently serving as a Non-Executive Director in Jatayupara Tourism Private Limited, a Tourism Project of the world's largest Bird Sculpture. He is also serving as an Ad-hoc Director for the Middle East for World NRI Council, a section 8 Company incorporated under the Companies Act, 2013.

Ms. Chandrika Subramanyam

Consultant, Council for National & International Commercial Arbitration

She is Consultant at CNICA Council for National and International Commercial Arbitration, The University of Queensland Success Lawyers and Barristers. Also, Mediator Arbitrator & Panelist - Asian Institute of Alternative Dispute Resolution—Malaysia. She is Senior Consultant - Council for National and International Commercial Arbitration -India, Panel Member - Indian Council for Arbitration -India. She has served as a President, Australia Forum for International Court for Dispute Resolution -Egypt. She is Member National Bar Association India. She is Visiting Faculty - Federation University, University of Western Sydney & Trainer - TAFE NSW.





Ms. Revathi Kannan

Founder & Partner, Revathi & Partners

She started her career as Legal Associate at Messrs Krishna Dallumah Manian & Indran. Subsequently she joined Messrs HL Lee & Co as Senior Legal Counsel. She has also served as Assistant Manager of Legal Department at one of the prestigious GLC company in Malaysia. Ms. Revathi Kannan founded Messrs. Revathi & Partners in the year 2014 in Puchong Selangor. Messrs. Revathi & Partners has been established as one of the leading medium boutique firm in the are of Civil Litigation law practice. She has been empaneled with AIAC as an Adjudicator to adjudicate the Payment Dispute in Construction Cases. In 2021, she was appointed as Fellow and Certified Practitioner (Adjudicator) by Asian Institute of Alternate Dispute Resolution (AIADR). Subsequently she have also has been appointed as member of PDEC Programs Subcommittee under the division of AIADR Professional Development and Education Committee (PDEC). The AIADR is endorsed by the AALCO, which comprises 47 member states from Asia and Africa, including China, Indonesia, Malaysia and many other countries in East Asia.

Ms. Emmy Latifah

Associate Professor, Universitas Sebelas Maret

She is currently working at the Fakultas Hukum, Universitas Sebelas Maret. Emmy does research in Public International Law, Treaty Law, Law of the Sea, International Environmental Law, International Trade Law, International Commercial Contract Law. She is having a long experience in international economic law, international development law and she is having numerous esteemed publications under her name.





Mr. Abhinav Mishra

Founder, Chambers of Abhinav Mishra: Advocates
& Solicitors

He founded Chambers of Abhinav Mishra: Advocates & Solicitors in 2018, the Chambers has emerged as one of the eminent legal service providers for its diverse practice capabilities and caters to matters Pan India. The Chambers

assists its clients by way of handling Litigation in Courts and Tribunals and also provides Corporate Advisory as well as legal Consultancy services, on matters about IBC, M&A, Competition Laws, Restructuring of Debt, and White Collar Crimes, Real Estate Laws, IPR, and Arbitration proceedings.

Mr. Satish Padi

Principal Associate, Khaitan and Co.

He is a Principal Associate in the Dispute Resolution practice group in the New Delhi office of Khaitan and Co. He completed his education NLUO. He specializes in contractual and commercial law disputes with a focus on hospitality, construction and infrastructure and oil and gas sector disputes. He is passionate about contract law and regularly writes on contemporary issues involving this area.



Mrs. Radhika Bishwajit Dubey

Independent Counsel, Mediator & Arbitrator

She is Independent counsel with vast experience and Arbitrator. She is Former Partner, Dispute resolution, Cyril Amarchand Mangaldas firm. She completed her law degree from GGSIPU She started her career as law researcher in Delhi HC.





Mr. Anil Changaroath

Managing Director, ChangAroth Chambers LLC & ChangAroth InterNational Consultancy

He is a Mediator, Arbitrator, Adjudicator, Advocate & Solicitor of Singapore, with a Masters of Science in Construction Law and Arbitration (KCL & NUS), Solicitor of England and Wales, having qualified in 1993 as a Barrister of England and Wales (Middle Temple) and five-years career as an infantry officer, Singapore Armed Forces before that.

He is in legal practice since 1995 (and conversant in Mandarin, Malay, Malayalam and Tamil besides English) and is Managing Director (and General Counsel) of ChangAroth Chambers LLC with a focus on Building, Construction and Infrastructure work and most aspects of Commercial, Civil, Criminal and Corporate Front End Advisory work and Appropriate Dispute Resolution Services. The Chambers is part of the pioneer batch of legal practitioners on the Singapore Academy of Law's Future Law Innovation Programme (FLIP) and recognised as the Singapore Law Society's SmartLaw (legal technology) practice.

Mr. Rajesh Sharma

Senior Lecturer, Justice and Legal Studies, RMIT University

He is Senior Lecturer, Justice and Legal Studies, RMIT University, Panel Arbitrator, KCAB. Member, Centre for Global Research and China University of Political Science and Law, Greater Melbourne Area.



Mr. Joe Kelly

Arbitrator & Mediator

He is an arbitrator, accredited Mediator, Expert Determiner and Adjudicator. His expertise includes management, contract management, quantum expert services, mediation, arbitration and expert determination in Europe, Middle East, Asia, Africa and North America.





Ms. Shweta Bidhuri


Head, South Asian Division, SIAC

She is the head of South Asian division of the SIAC. As Head of the South Asian branch, Shwetha is based in Mumbai, India, and manages SIAC's liaison offices in Mumbai and GIFT City, Gujarat.

Prior to joining SIAC, she worked in the dispute resolution practice of a leading law firm in New Delhi for 9 years, with a focus on investment treaty arbitration as well as commercial litigation cases.

Dr. Srikant Parthasarathy

Chambers of Dr. Srikant Parthasarathy &
Door Tenant at Holborn Chambers, London



He holds a Ph.D in Finance from the United States of America, Chartered Accountant from India and Chartered Management Accountant (Pending Membership) from United Kingdom. He has over 13 (thirteen) years of experience in the area of Finance and have been part of 6 (six) Wealthy Family's (Net Worth- 2000 Cr/ USD 500 Million upwards) external counsel for settling Company dispute & Real Estate matters. He is also an empaneled arbitrator with the several High Courts in India and the Indian Dispute Resolution Council, Permanent Member- Indian Council of Arbitration and a distinguished member of the Gujarat Maritime Cluster (Government of India Initiative), Mentor, Niti Aayog (Policy Arm) Government of India. He has also been awarded Best Family Office Year 2019-2020.

He is currently working at Chambers of Dr. Srikant Parthasarathy. He is Visiting Professor of International Law. Alumnus- The Hague Academy - Public International Law & Private International Law ASEAN Expert & Distinguished Jurist.

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IMMUNITY OF STATES AND ENFORCEMENT OF INTERNATIONAL ARBITRAL AWARD: THE ISSUES AND PROSPECTIVE

- *Narinder Gupta* (Professor, Shoolini University, School of law, Solan, Himachal Pradesh, India),

***Chander Mohan Gupta* (Assistant professor, Shoolini University, School of law, Solan, Himachal Pradesh, India) &**

***Jaffe Alkhayer* (Researcher Associate, Shoolini University, School of law, Solan, Himachal Pradesh, India)**

ABSTRACT

The need for rapid, effective, and at the same time fair international arbitration is undeniable, while countries seek to prove that they are friendly countries for arbitration in global commercial circles. At the same time, they do not accept the enforcement of arbitration award if the last contradicts their public policy and they use to achieve that their immunity from the execution of arbitration rulings, which derives from the principle of state sovereignty, especially when the state is a party to the dispute. The present paper examines the relationship between the enforcement of arbitration awards and the states' use of their immunity to prevent the enforcement of these awards. The paper begins with a study of the reasons and procedures for annulment or setting aside arbitral awards, then comes to study the procedures for recognition and implementation of arbitral awards, and then examines how the immunity of the state prevents the execution of arbitral awards to it. The paper presents the case of the Russian company (Yukos) vs the Russian government as a case indicating the extent of the impact of the principle of immunity in preventing the execution of arbitration rulings to countries, and it attempts to present some solutions and suggestions that may contribute to lighting the way for more effective arbitration.

INSTITUTIONAL ARBITRATION IN INDIA: ALL THAT GLITTERS IS NOT GOLD

**- *Shantanu Pachahara*,
Assistant Professor, School of Law Alliance University, Bengaluru**

ABSTRACT

International arbitration has flourished as a private adjudicatory forum and is consistently evolving because of its versatile nature, assimilating the needs of modern arbitration users. Arbitration institutes have bent over backward for the development of international arbitration. All jurisdictions through sporadic amendments upgrade their curial law in alignment with the current global arbitration norms. Users selecting India as the seat of arbitral proceedings often face the conundrum of delayed arbitration proceedings and enforcement of the award; moreover, the bulk of domestic users in India opt for ad-hoc arbitration and not institutional arbitration. Following the common practice, India in 2019 passed the Arbitration and Conciliation (Amending) Act, 2019 and the New Delhi International Arbitration Centre Act, 2019 making changes to intensify the object of the Principal Act further, strengthening institutional arbitration, and striving to transpire as an international arbitration hub in South-East Asia. The author in this article unveils the question, whether India's endeavour to strengthen and reinforce institutional arbitration in India vide the Amendment Act, 2019 would promote institutional arbitration among domestic users and attract sufficient international users to choose India as a foreign seat.

LOK ADALAT: PUBLIC AWARENESS THROUGH MEDIA

-Dr Sunil Gaikwad,

Programme Officer, All India Radio, Kolhapur (Maharashtra)

ABSTRACT

Article 21 and 39-A of the constitution provides for protection of Life and Personal Liberty and Equal Justice and free Legal aid. Protection of life and personal liberty constitutes with to timely justice also, otherwise justice delayed is Justice denied which is against the tenets of Constitutional provisions. In the same way equal Justice and Free legal aid to the economically weaker section is also essential for timely justice, but due to piling of cases in courts it is becoming very difficult for courts to deliver justice on time which leads to the mental torture of the aggrieved party thereby denying them the right of timely justice. But Lok Adalat can play here a very crucial role in delivering justice faster if it is implemented in letter and spirit and at regular intervals. Lok Adalat not only helps poor to get justice faster but it also helps to strengthen law and order in the country. Lok Adalat helps to resolve the dispute between parties by maintaining the cordial relations among them, which is very essential for peaceful coexistence and faster economic and social growth of the country. But are people aware enough about the function and overall structure of Lok Adalat and is media giving enough publicity to the activities relating to Lok Adalat is a big question, This research paper takes a in depth look into the role of media and awareness of people about Lok Adalat, and suggest ways to make it more effective and active.

ARBITRATION AND BLOCKCHAIN TECHNOLOGY (BCT): A PREREQUISITE FOR FUTURE OF LEGAL GROWTH

**- Miss Siddhi Singh, Assistant Professor &
Gurmeet Singh, LL.M, Vishwakarma University, Pune**

ABSTRACT

Arbitration, an Alternate Dispute Resolution System (ADR), as a mode of resolution of disputes has been encouraged not only by lawyers and academicians but also the courts. Even Section 89 of the Civil Procedure Code, 1908 lays down the provisions for using ADR methods for settlement of the disputes outside the courts. This initiative has lessened the time for settlement of disputes to a great extent, but still there is long way to go. To fructify the need to address any issue and provide immediate relief to the parties in a conflict, technology can be a game changer. A surge of technological advancements has been seen in the recent past across the globe in almost all spheres of life. When we see the legal domain, it is significant to note that the diligent and tiresome processes for law practitioner, researchers, scholars and students, encountered in the courts of law, can gain from the use of technology. Technology in Blockchain Arbitration is one such way which can be used to give immediate relief to the parties without any human involvement or minimum intervention and unreasonable delays. The researchers are of the view that this technology not only maintains confidentiality but is also cost effective. The process is easy and technology based where agreements are coded in the form of chains which can be accessed by the parties directly and even the enforceability of such awards is smooth. Various other facets of blockchain technology and smart contracts which pave the way for growth of future legal systems are discussed in this research paper. An effort has been made by the researchers to touch upon certain lacunae in the conventional arbitration processes and address the gap through the use of technology, especially the BCT. Towards the end of the research paper, the technological advancements which can ensure trust in the blockchain technology, especially in the field of arbitration have been discussed.

**A STUDY ON THE SCOPE OF MEDIATION IN MATRIMONIAL DISPUTES
WITH A SPECIAL REFERENCE TO THE ROLE OF
NON-GOVERNMENTAL ORGANIZATIONS IN INDIA.**

**- Souradipta Bandyopadhyay,
Research scholar, University of North Bengal.**

ABSTRACT

The judiciary in India is overloaded with litigation. The judges are finding difficulties in resolving all the cases in a reasonable amount of time. As an inevitable result of that, the rights of not only the victim but also the complainants are getting somehow violated. There is a need for a secondary platform where relief can be sorted out within a limited period and which is cost-friendly. The ADR, especially the mediation process has proven to be effective and is becoming a relevant platform for mitigating the growing matrimonial disputes in India. It is a non-coercive method and has fewer technicalities which are making it popular. The current Judicial structure of India needs an expansion sooner. Thus the nongovernmental organizations that are selflessly providing service to the people can come to the rescue here.

The purpose of the study is to find out the scope of mediation along with the causes and reasons for the matrimonial disputes in India. Also, this paper has focused on the role of Nongovernmental organizations and how they can contribute to the solution. This piece of study is purely doctrinal and the data are collected from primary and secondary sources.

MEDIATION IN INDIA: NEED FOR REFORM

**- *Sunaina Mishra*, Research Scholar, Christ (Deemed to be University) &
Akansha Ghose, Research Scholar, University of Antwerp**

ABSTRACT

Effectiveness of the Indian judicial system is being criticized time and again for the number of pending litigation. Though techniques of alternative dispute resolution have played a great role in reducing the burden of the courts, the Indian judiciary is still facing the issue of huge pendency of cases. The technique of mediation has been accepted to be a potential factor for resolving disputes outside the court with least cost and time. Despite its numerous benefits the Indian judicial system has somewhat failed to effectively realise its success at mediation. Existing framework does not make pre mediation a compulsory practice to be followed by parties. In this paper the author seeks to understand the existing framework of mediation in India and its associated problems. Thereafter this paper will try to find out the solutions that can be initiated for the betterment of the mediation system in India.

INDIA AS AN INTERNATIONAL COMMERCIAL ARBITRATION HUB: THE CHALLENGES

Apoorv Mishra, LL.M,
Dharmashastra National Law University, Jabalpur &
Titikhya Barkataki, LL.M,
Gauhati University, Guwahati

ABSTRACT

The Article deals with the International Commercial Arbitration and its scope in India. It starts with giving a brief about International Commercial Arbitration i.e a commercial dispute between two or more contracting parties where either of the party or parties are foreign national or whose central management is in the foreign hands. The article proceeds with critically examines the Challenges of International Commercial Arbitration in India citing relevant judgments and laws. In the conclusion the article suggests several areas where the Indian Laws need to be amended in a manner which is more accommodating and responsive towards International Commercial Arbitration.

SPORTS DISPUTE RESOLUTION SYSTEM IN INTERNATIONAL ARBITRATION

**- Parineeta Goswami, Assistant Professor of Law,
SRM University, Sonepat, Delhi**

ABSTRACT

The sports profession is one such profession which existed since prehistoric times. For example, in Mahabharata, Arjun excelled in the archery sport. In present times also sports play a very important role in our life. Now a child must be excellent in academics as well as in other extracurricular activities. And one of the dominant extra-curricular activities is sports. Sports affect not only players it affects us all whether they were spectators, officials, sports organizations or the athletes themselves. It may uplift or depress the mood of the whole nation. This scenario was beautifully portrayed in the movie named Invictus in the year 2009. This movie shows how rugby sports brought entire South Africa together at the time of the election of President Nelson Mandela. Now the question arises why do we need to research sports? It is required because sports play a very important role in the global economy and also so many disputes occur nowadays. For example, the sports career of a sportsman is on the verge of extinction. And it can happen because of many reasons such as the behaviour of sportsmen with sports federation is not good. Also, we have seen that the doping issues are one of the main reasons to finish the career of a sportsman. So it is very necessary to solve these problems or disputes outside the court so that they cannot harm the whole positive environment of sports. So there sports arbitration comes into the picture. Sports arbitration is a form of sports dispute resolution system. This paper will explore the problems that why sports arbitration comes into the picture and what is the present scenario of that. The first chapter gives a brief overview of the history of the Court of arbitration of sports and the sports dispute resolution system. The second chapter mainly focus on institutions that specifically established for sports arbitration. These institution are Court of Arbitration for Sports and the International Council of Arbitration for sports. The third chapter is related with event of sports arbitration in India. And fourth chapter analyse the International commercial arbitration and sports arbitration.

ENFORCEMENT OF MEDIATED SETTLEMENT AGREEMENTS IN INDIA: THE NECESSITY OF COMPREHENSIVE LEGISLATION FOR EFFECTIVE IMPLEMENTATION

**- Sanjay Pal Chauhan, Research Scholar,
Department of Laws, Himachal Pradesh University, Shimla**

ABSTRACT

The traditional approach to resolving and managing disputes has evolved over the past few decades, with newer alternative methods occupying their space. These new alternative methods are much more comprehensive, all-embracing, and more focused on the basic issues and structure of disputes, and not just about managing disputes. There is a paradigm shift from contesting the dispute to consensually resolution of disputes through these new alternative mechanisms, significant of which is the Mediation.

The concern for regulation of mediation was in discourse, since the statutory recognition of mediation under section 89 of Civil Procedure Code, 1908. Valuable light is thrown on the modalities of mediation regulation by judgments of Hon'ble Supreme Court in Salem Bar I, Salem Bar II, and Afcons Infr. Ltd. The signing of Singapore Convention on Mediation by India, setting up of committee on Draft Mediation Law by Hon'ble Supreme Court of India, and the circulation of Draft Mediation Bill, 2021 amongst stakeholders, is a step forward for much needed specific legislation governing mediation in India.

Mediation process produces results that are much satisfactory, and settlements that last longer. Although, the compromise agreements have long been supported by the traditional litigation system in order to avoid multiplicity of proceedings, but the enforcement of settlement agreement reached in the mediation process is a newer exercise to it. The recent trend over many jurisdictions of enacting provisions for strengthening the enforcement of mediated settlement agreement suggests that, the existing legal framework needs strengthening measures in our jurisdiction too. This paper seeks to examine the necessity for fresh laws governing mediation concerning the enforcement of mediated settlement agreements. This is followed by a brief examination of the current issues, and challenges concerning the enforcement of mediated settlement agreements in our jurisdiction.

FUTURE OF ADR: CONTEMPORARY ISSUES AND CHALLENGES

**- *Shalini Dalat*, Ph.D. Scholar (Law & Governance),
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ABSTRACT

India is a massive country. Due to the increasing speed of population and struggle, there has been a significant increase in the number of cases filed in court that are pending and are constantly being postponed. Alternative Dispute Resolution, or ADR, provides us with deductively developed processes to assist the Indian legal administration in reducing the weight on the court. It resolves disputes in variety disputants' areas, including civil, commercial, and industrial disputes, among others. It appears to be a useful means of resolving conflicts. The concept of ADR is enshrined in Articles 14 and 21 of the Indian Constitution, which are based on the principles of equality before the law, right to life, and personal liberty. In this paper, the author will discuss the future of ADR as well as the issues and challenges that are encountered when dealing with ADR.

A SCRUTINY INTO KEY PROVISIONS OF THE AMENDED ACT AND THE NEED AND SCOPE OF “EMERGENCY ARBITRATION” IN INDIA

-Aman Varma, Advocate &

Shivendra Narayan, BA, LL.B (2nd Year), RMLNLU, Lucknow

ABSTRACT

"Differences we shall always have but we must settle them all, whether religious or other, by arbitration. - **Mahatma Gandhi**

The law of Arbitration in India is at a cross-roads. India has spent the last twenty years pushing forward a permissive party autonomy arbitral regime which sets out a framework of provisions for arbitration and the making, challenging, and enforcement of awards, whilst allowing the wishes of contracting parties to mould internal procedure to suit them. The Courts are expected to play a minimal interventionist role, only stepping in when the parties fail to act, or where specifically required by law. This was an attempt to lure international trade and investment by facilitating alternate dispute resolution & bypassing judicial systems. Theoretically, the system is workable, but it has become cumbersome and complex.

This paper also examines the workings of the Emergency Arbitrations in successful jurisdictions of the world. Further, it scrutinizes the challenges both judicial and institutional present in the Indian scenario. This paper concludes by analyzing the importance of international commercial arbitration institutions in India in order to make India into a business hub reviewing the idea of GIFT City, which is India's first IFSC and its scope of international arbitration.

A FUTURE OF ALTERNATIVE DISPUTE RESOLUTION: PROSPECT AND CHALLENGES

**- Bhargavi Nimje, BBA, LL.B (2nd Year)
Deccan Education Society's Firodia Law College, Pune University**

ABSTRACT

What exactly is Alternative Dispute Resolution (ADR)? Why does India have a great prospect of becoming an International Commercial Arbitration hub and challenges associated with it? What are the advantages of ADR over litigation? How implementation of ADR is challenging for India? These are the questions been addressed throughout this paper. ADR provides different methods for the parties to solve their disputes. Since there have been efforts from the government and judiciary to make India hub of International Commercial Arbitration, it is very important to know an international arbitration in the light of Article 1(3) of Model law of UNCITRAL. Government has made various amendment so far to Arbitration and Conciliation Act, 1966. And also, the court has mentioned about arbitration in some of the cases. Receiving the support from government and judiciary, India has a prospect of becoming a hub of International Commercial Arbitration. However, with the prospect there comes some challenges, the investors look after many factors while investing in other countries and one of the factors is the arbitration mechanism of the country. And so, this paper has made a detailed study of challenges for India to be an International Commercial Arbitration Hub. It is very important for India to grow legally that is to avoid the current overburden of cases on the courts and make a speedy trial. Hence, the country needs ADR to address this issue.

A EXIGENCY FOR AUTOMATION: BLOCKCHAIN AND SMART CONTRACTS IMPERATIVE IN THE REALM OF CONTRACTS AND ARBITRATION

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ABSTRACT

The interruptions caused by Covid-19 had a significant impact on the administration of justice in India. The Indian judicial system was already lagging with an immense burden of cases, which was aggravated during lockdown. With the judicial system searching for some respites, ADR in general and arbitration in particular seems a beacon of hope. In recent years, technology has sprouted at a phenomenal rate. Every field is making itself better by equipping itself with the best of technologies. To make arbitration futuristic and burgeoning, there is a dire need to arm it with pioneering technologies such as blockchain and artificial intelligence. This paper showcases how blockchain can transform the domain of contract, thereby making it more trustworthy, safe, smooth, cost effective and reliable.

Furthermore, the paper will exhibit how blockchain based smart contracts supplemented with blockchain arbitration can transform the world of ADR. The paper will explain the functioning of blockchain arbitration and smart contracts, and further showcase that despite some disadvantages, smart contracts are apt and futuristic. In addition, the paper will also touch upon why there is a necessity to adopt a more flexible outlook in relation to embracing novice technologies like smart contracts, blockchain and AI. The paper will also highlight the role of artificial intelligence in blockchain arbitration. Moreover, the paper will showcase some legal cavities surrounding blockchain arbitration. At the end, it will put forward some suggestions and recommendations regarding the same.

THE DYNAMIC FUTURE OF ADR: A CRITICAL ANALYSIS ON IMPACT OF PRIVATIZATION.

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ICFAI Law School, Hyderabad**

ABSTRACT

The popular quote of justice delayed is justice denied explains the current status of the justice system across the world. And litigation, though a traditional dispute resolution approach, is leading to such delays because of expensive and time-consuming mechanisms. This is where ADR aims to save the day. The ADR mechanisms prioritize dealing with setbacks of litigation over any other principle. These alternate approaches are not only giving an option to parties that consider being bound to litigation but also help the justice system from piling civil cases. The research analysis, initially, involves, using the presence of ADR in history to gain fair sanction as a useful dispute resolving method. And it then dives into the correlation between the privatization trend in the 1980s and increasing advocacy in favour of ADR. The research focuses to answer the question of whether ADR is privatized or not.

This research successfully applies the correlation principle between sanction of society given in history, privatization wave and how ADR has created dialogue in the legal framework. However, this research only focuses on ADR in isolation of the factors that indirectly might influence the rise of ADR and analyses the related material facts with a microscope. With the pandemic bringing change in every other industry, the increasing dialogue of online ADR and using ADR to get rid of dragging delays sparked the interest to analyse the ADR with respect to privatization. The objective of the paper is to successfully answer the question - is ADR privatized justice? – And additionally, depict the necessity of ADR, using qualitative analysis method and correlation-deduction approach towards the subject matter. The research aims to prove the justified use of ADR, irrespective of the debate of it being privatized and concludes with how features and advantages ADR brings to the table. Keywords: ADR, setbacks of litigation, justice system, privatization and privatized justice

THE FEASIBILITY OF ADR POST COMMISSION OF INTERNATIONAL CRIMES WITH EMPHASIS ON THE GACACA JUDICIAL SYSTEM

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ABSTRACT

The role of Alternate Dispute Resolution (ADR) in matters of criminal nature has always been at the forefront of debate; restorative justice, clemency, pardon, and amnesty are simply subsets under the umbrella of Criminal ADR. The main purpose of ADR is to decrease burden on the already overburdened courts, make justice accessible, and to ensure amicable settlements of disputes as far as possible. However, as a general principle of criminal jurisprudence, criminal matters are often against the state and a blatant violation of prevailing social norms; these cannot be deemed to be mere disputes, and hence the application of ADR is restricted to the extent of these issues. That said, attempts at restorative justice have been made such as the implementation of the '*Gacaca Justice System*' in Rwanda after the Civil War, which has gained both praise and critique worldwide. This paper aims to understand where Criminal ADR finds place in jurisprudence by highlighting tools such as amnesty, pardon, and justice tribunals as ADR mechanisms, primarily focusing on the use and misuse of these provisions. To contextualize the study, a critique of the '*Gacaca Justice System*' (hereinafter the Gacaca System) practiced in Rwanda to mitigate the damages of the Rwandan Civil War has been included; the Gacaca system was one of the largest systems of retributive justice and Criminal ADR implemented after a prolonged period of lawlessness and crime. Meanwhile, there have been questions on evidence of remorse by perpetrators. Hence, the paper problematizes the possibility of the failure of Criminal ADR with the Gacaca system as an example.

NEED FOR THE DEVELOPMENT OF MEDIATION LAWS IN INDIA.

**- *Hiranmayee Ramesh & Prathina P Tharuna,*
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ABSTRACT

It is an undeniable fact that the ill-equipped judiciary fueled by the inadequate awareness regarding the alternative means of dispute resolution has led to a sorry state of affairs in the country. Looking at an alternative framework to enhance the justice provided and to reduce the burden on the courts, mediation has been observed to be the most suited form of an alternate dispute redressal mechanism. Once implemented, mediation will seek to involve a lot of disputes that haven't actually been raised in the courts, thus providing for a great array of cases being resolved amicably in the country. This paper investigates the idea of compulsory mediation as an answer for lessening pendency in the customary court framework. Subsequent to examining the idea of mediation and the current administrative system overseeing it in India, this paper distinguishes the issues tormenting mediation in India. It continues to analyze that the number of these issues can be overwhelmed by making mediation compulsory.

Further it talks about the advantages of mediation and endeavors to address a few concerns encompassing it. To focus in on the most proper model for presenting mediation in India, this paper takes a gander at how compulsory mediation has fared in different regions like the European Union, Australia, Singapore, the United States and Italy. Amongst other recommendations, this paper also suggests that India ought to present an adjusted rendition of the pertinent laws in the country, in a manner which facilitates the introduction of mediation.

UNLAWFULLY OBTAINED EVIDENCE IN INTERNATIONAL ARBITRATION

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ABSTRACT

On leaving the decision of admissibility of evidence on discretion of arbitral tribunal, there has been a wave of uncertainty on the rationale by which decisions are taken. In absence of explicit mentioning of the procedure in the IBA Rules 2020 on taking of evidence, the evidence obtained illegally has been included and excluded case-by-case basis. Various arbitral tribunals have different conclusions on the admissibility of illegally obtained evidence and it could be made out from different case laws mentioned in the paper. Through the course of this paper, the author aims to elaborate the legal framework and the controversies around the admission of evidence obtained illegally. Starting with the legal background on taking of evidence in international arbitration, the instances and grounds for inclusion of tainted evidence has been discussed. Subsequently, the approach undertaken by arbitral tribunals to decide on admissibility is specified along with cases involving state parties producing illegally obtained evidence. In closing, the need for balance of interests between privacy of parties and the truth is elaborated further suggesting a model for a more clear-cut approach.

A DIRE NEED OF MEDIATION LAWS IN INDIA: NATIONAL AND INTERNATIONAL PERSPECTIVE

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ABSTRACT

The judicial system of India is often criticized for an excessive number of pending cases, ineffectual functioning, and extensive reliance on conventional methods of dispute resolution. To curb these shortcomings of the Indian judicial system, it has been pointed out on several occasions by the stakeholders to adopt alternate techniques of dispute resolution. Though arbitration and conciliation have gained prominence in dispute resolution due to suitable legislative framework but mediation is yet to gain popularity in the country. The lack of legislative regulatory framework has often been cited as one of the main reasons for its lack of development.

This article begins with discussing the concept of mediation and understanding why mediation is better suited than litigation for litigants in India to resolve their disputes. Furthermore, it focuses on various forms of mediation regulation across various States globally, and states that the formal regulatory model is the most appropriate form of mediation regulation for India. It then proceeds to examine the creation of a national legislative framework which is the ideal next step in India. The study finally provides some suggestions which may be incorporated while drafting the national legislation.

CONFIDENTIALITY MATTERS IN ARBITRATION: IMPACT OF COVID CHANGES

**- Vini Kewaliya,
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ABSTRACT

Confidentiality is one of the basic tenets of arbitration and a feature which makes ADR processes a more effective than ordinary litigation. Therefore, upholding this doctrine of utmost importance, especially in times like these when the arbitration proceedings across the world is switching to an online platform. Many corporate houses choose arbitration practice as it doesn't toss their secrets and protects their name to go out in public; therefore any compromise with this doctrine is basically a nail on the entire arbitration system. This paper will critically analyse the need of confidentiality and the ways to protect it by going in the nuances of the subject matter with several cases. It will also address the modern-day problem of cyber-attacks and data breaches due to ever increasing ODR platforms and finally propose a way forward.

MEDIATION: A SPIRITUAL INSIGHT INTO DISPUTE RESOLUTION

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***Mohammad Athar Talib* , PhD Research Scholar ,**

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ABSTRACT

Mediation is built on the assumption that every human being has an inherent desire for peace. We all have the good and the bad in us, the kind, the compassionate, the magnanimous and also the angry, the greedy, the stubborn, the envious. If we can access the good in a person, we can bring forth the desire for peace that exists within him. Mediation clears the way to the sacred and spiritual inner being in the parties.

For example, in the mother-son mediation, some of our emotions were triggered by the son, and the other was triggered by the mother. For separate reasons, the mediator finds an area of personal reactivity in this case, and discussing the reactions opens the door to learning where our internal points of identification and conflict occur. Some stirred-up part of us was calling out for attention in those situations, and learning to understand and appreciate the power of that part was essential to accessing our Self- energy and engaging in Self-leadership. This process of reflection and re-centering takes place throughout a mediation, from minute-to-minute, and after the mediation is over.

This paper would analyze various aspects relating to the spiritual side of the mediation process.

LEADING ARBITRATION THROUGH ARTIFICIAL INTELLIGENCE

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ABSTRACT

The term Artificial Intelligence constitutes such innovations that have been designed to have a level of aptitude into machines, similar to human beings for carrying out tasks that require human intelligence. It is an incessant attempt to form a 'transhumanism' framework where it can either surpass or provide a better version of human capacities. The speed at which Artificial Intelligence is developing is being recognized and has made inroads in all walks of our lives, it will undoubtedly have an impact in each area of the legal profession as well as the laws of Arbitration, as a method for dispute settlement holds no exemption. The option of having a Human Arbitrator alongside an AI-empowered framework can help in arriving at a resolution in a lot lesser time. However, this is a fragile zone where the qualities of AI are to be utilized without endangering the guiding principles of arbitration because of an emerging technology, threats which have not been completely found yet. Since in the coming future, AI will be able to possess the cognitive capacity to carry out tasks that in the present can only be carried out by humans, with more efficiency and accuracy than the humans themselves, it will result in a reduction of the workforce. We also need to bear in our minds that equity is certainly not a simple and direct machine calculation, it is a genuine human virtue, which to is incorporated necessities an intricate assessment of the events and circumstances incorporating a specific case similar to the current realities and utilization of the law, to have the option to find some kind of harmony at the organization.

THIRD-PARTY FUNDING FOR ARBITRATION IN INDIA: REGULATING THE DICE

**-Ahan Gadkari,
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ABSTRACT

Third-party funding has become a necessary evil in light of the exorbitant expenses associated with international and local arbitration. Third-party funding had historically been declared unlawful in litigation in the majority of common-law countries due to the application of the outdated doctrines of maintenance and champerty. Arbitration hotspots such as Singapore and Hong Kong have enacted legal frameworks recognizing and accepting third-party funding in arbitration, thus abolishing these antiquated principles. Despite the uproar over its ethical, economic, and legal implications, regulating this financing method encourages access to justice and helps qualified plaintiffs to progress in their cases. This paper attempts to examine the advantages and dangers connected with third-party funding by referring to current regulatory systems in various countries. Due to the absence of regulation, the Indian market may continue to face considerable dangers. Legislation to address this legal void might aid India in becoming the arbitration centre that it aspires to be.

THE CONFLUX OF ESGS AND INTERNATIONAL ARBITRATION: THE ROADMAP TO SUSTAINABILITY

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ABSTRACT

ESGs are visible and dominant from policy resolutions to dispute settlements. The corporate world and countries, equally, are finding ways to forward the ESG goals. But are their actions spearheading at the right target? The answer is, yes. The rising ESG-oriented disputes between investors and countries, between corporations and the international community, are signalling towards increasing awareness on ESG norms and principles. Another major question that arises is, whether international investment treaties are assisting in the smooth implementation of ESG norms? This might even prove to be one of the major causes for investor-state disputes. The lack of ESG compliance in international investments and use of non-standard contracts, are proving to be major hindrances in creating an ESG-based ecosystem. This paper therefore, tries to raise and answer questions as to the future of ESGs in a constricting dispute resolution system blinded by policy imbalances.

INDIA'S DREAM TO BECOME HUB FOR INTERNATIONAL COMMERCIAL ARBITRATION: CHALLENGES AND PROSPECTS

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ABSTRACT

Today arbitration is one of the most well-credited modes of settlement for commercial dispute resolution arising domestically as well as internationally. Within the minimalist time frame of its development, arbitration holds a significant impact upon the mechanism of settling commercial disputes. Wherein, India being one of the fastest-growing nations, struggles to become the central hub for commercial arbitration, which creates an image of unsent mixed evaluation upon the investors to invest. The praiseworthy efforts of government and judiciary to make India a global hub for arbitration somewhere lacks in implementation, institution, and awareness.

Thus, intending to develop and grow, India aspires to become one of the leading hubs for international commercial disputes. But the pathways towards this journey are not easy, it is full of challenges and hurdles putting forth the question of its success and failure. With this view the paper objectifies the robust mechanism of arbitration through an overview of the reality versus myth, analysing its comparative global capability and the pertaining challenges along with their solutions to accelerate its systematics towards a better future.

INDIA AS A HUB OF INTERNATIONAL COMMERCIAL ARBITRATION: THE CHALLENGES

**- Gauri Kanodia, BBA, LL.B (3rd Year) &
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ABSTRACT

Each commercial movement in international exchange and commerce is often preceded by an agreement establishing the gatherings' resolve to steer away from legal issues. In this circumstance, regardless of how well an agreement is structured, single\ party to the agreement may interpret his rights and duties in an unanticipated way. Frequently, global craft involves merchants doing business with other countries, each of whose broad set of rules may differ in a variety of ways from the other, including intricate and startlingly conflicting components. Every country's courts have a location just within the country's most remote regions. As a result, mediation became popular as a versatile technique of resolving disputes amongst groups from many countries. Worldwide Commercial Arbitration refers to a query aim framework that is business in character and has a global component.

In international commercial arbitration, single party is an occupant of any country other than India or a body corporate which is fused in any nation other than India or a corporation or an association or a body of a people whose chief administration and control is practiced in any country other than India or the government of an unfamiliar nation, and when any question rises from professional relations among these gatherings if such debates are all settled. The aim of the research paper is to explain what are the challenges faced by the India to become the hub of the International Commercial Arbitration. In this research paper we compared the Indian Arbitration law with other countries and also we discussed the future of India as a hub of International Commercial Arbitration.

BLOCKCHAIN ARBITRATION AND SMART CONTRACTS: A NEW DIASPORA OF ALTERNATIVE DISPUTE RESOLUTION

- *Ishan Sharma, BA, LL.B (3rd Year),*

Himachal Pradesh National Law University, Shimla

ABSTRACT

With blockchain technology gaining traction around the world, combining it with arbitration could produce some intriguing outcomes. Technology has the ability to change the way things have been done in the past, as well as all of the traditional techniques that our human brain has become accustomed to. In basic terms, Blockchain was invented, like any other technical advancement, to lower a person's work and boost the role of technology in increasing productivity for the task at hand. Smart contracts have received a lot of popularity and recognition in the technology world. In the sphere of law, innovation is having a mind-blowing impact that is growing at a breakneck speed. Smart contracts and blockchain arbitration can function together, but do they follow the same rules as traditional dispute resolution? Can they become the future of dispute resolution mechanisms? This paper examines the intersection of Blockchain Arbitration and Smart Contracts, which has resulted in the establishment of a new Dispute Resolution sector, but not without its own set of concerns and obstacles. It also covers how blockchain arbitration operates. Smart contracts are also examined in relation to India, as well as their advantages.

**CONFIDENTIALITY IN INTERNATIONAL COMMERCIAL ARBITRATION:
ANALYSING THE FRAMEWORK OF DOMESTIC AND INSTITUTIONAL
ARBITRATIONS**

-Vanshika Sharma & Ayush Kumar Singh,
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ABSTRACT

Arbitration as an Alternate Dispute Resolution has gained momentum in the last decade. With the evolution of time, there has been a shift towards arbitration by the parties as it is private in nature and provides for speedy disposal of dispute. With the new challenges emerging in the transactions, a need was felt to introduce confidentiality in the arbitration. But the implementation and enforcement of confidentiality has been in question. With this research the authors try to analyse the provisions governing confidentiality with a major focus on the recent amendment in Arbitration and Conciliation Act, 1996 via Section 42A. The research deals with the confidentiality in the other jurisdictions as well in order to give the readers a comprehensive view from the global perspective. The research also discusses the confidentiality under Institutional Arbitration Rules like ICC, LCIA, AAA-ICDR, WIPO etc. The research also discusses the major case laws globally on arbitration in which confidentiality has been questioned. With this research, the authors meticulously analyse the framework established during the course of time in different jurisdictions as well as institutional arbitration and address the concerns related to disclosure of confidential information.

INVESTMENT ARBITRATION: EVALUATING THE PROTECTIONIST MINDSET

***-Nikita Sharma & Shikhar Bhardwaj, BBA, LL.B (5th Year),
Himachal Pradesh National Law University, Shimla***

ABSTRACT

The paper will throw light on contemporary issues, case laws, Legislative acts, suggestions and scope of improvement in the same providing holistic and vivid picture to the reader about investment arbitration in India and its way ahead. This paper is intended to analyse if the current policy with respect to Investment Arbitration is justified when considered in light of effect on long term FDI environment in India? The paper at first hand tries to understand the development of Investment Arbitration in India. For this, the stages of development of the field is traced within 3 stages. With this background, it is intended to explore and understand the reasons behind current policy of government moving away from Investment Arbitration. The paper is an insight to the growing ambit of investment arbitration and the approach opted by Indian Government in this regard. Significantly, focus is on the effect of this policy on the ease of doing business and economic goal of bettering FDI. It lastly but most importantly focuses on a prognostic study of the future of Investment Arbitration with a focus on FDI. This paper is not yet another paper of criticism but a scholarly study highlighting loopholes for improvement to make an investment arbitration friendly environment.

BLOCKCHAIN ARBITRATION: A BOON OR A BANE FUTURE DISPUTE RESOLUTION?

***-Utkarsh Jindal & Harshit Bhimrajka, BA, LL.B (3rd Year),
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ABSTRACT

The advent of Alternative Dispute Resolution (hereinafter referred to as ADR) as a full-fledged process of resolving conflicts can be dated back to 1906 when Roscoe Pound presented his paper titled “The Causes of Popular Dissatisfaction with the Administration of Justice” in which he focused on the “causes lying in the peculiarities of the Anglo American legal system”. In his speech, he introduced the novel concept of a multi-door courthouse where he emphasized new integration-doors to access justice in consonance with the approach to resolve legal conflicts and this led to the birth of ADR as a dispute resolution mechanism. Also, his observations on the ‘sporting theory of justice’ kick-started the beginning of the ADR profession in the world.

Blockchain, one of the most talked-about developments in recent years, as technology has increased the productivity and efficiency of many activities but how efficacious it is in the legal world is still a question that needs a concrete answer. In our day-to-day lives, technology such as Blockchain with multidimensional capabilities could be channelized for various uses. Experts of law have merged this technology with smart contracts by encrypting it through cryptography that makes it operate on the execution of predetermined commands only. Similarly, it has been used with ADR to make the dispute resolution mechanism more effective. Thus, this paper deals with how this technology found its way to the field of ADR as it does with agreements/contracts, further it throws light on the status of blockchain arbitration through an Indian perspective.

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