# Comparative Analysis of Alternative Dispute Resolution: Insights from the USA, UK, and Australia[1]

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## ABSTRACT

The present paper provides an overview of the alternative dispute resolution (ADR) procedures that are used in the USA, UK, and Australia. It analyzes their legislative foundations, historical development, and practical applications. The research endeavors to offer insights into the effectiveness and distinctiveness of alternative dispute resolution (ADR) techniques in different countries by utilizing a wealth of legal history and modern practices. The report examines arbitration, mediation, and other alternative dispute resolution (ADR) methods to show the many ways that each nation has addressed judicial delays, advanced affordable dispute resolution, and fostered fair outcomes. Through an examination of the institutional frameworks, legal frameworks, and cultural factors that shape alternative dispute resolution (ADR) practices, this research aims to provide insightful insights and possible directions for improving dispute settlement systems around the world.

**Keywords***: United States of America; arbitration; mediation; alternative dispute resolution*

## INTRODUCTION

This is the Court of Chancery—an institution that depletes financial resources, patience, courage, and hope; as a result, it destroys the intellect and breaks the heart; no honourable practitioner among its members fails to issue the warning, which is seldom given. If there is any wrongdoing that can befall you, it is better to come here rather than remain silent. In his novel Bleak House, Charles Dickens describes mischievous solicitors in the High Court of Chancery who stumble over slick precedents, delve knee-deep in technicalities, and pretend to practice equity with serious expressions. The judicial delays and arrears that the Indian courts are presently confronted with are attributable to these incidents; this emphasizes the need for alternative dispute-resolution procedures.

One of the quotes from Abraham Lincoln, the US President at the time, reads, "Discourage litigation; persuade your neighbors to compromise whenever you can." Make it clear to them that, in terms of costs, fees, and wasted time, the nominal winner is frequently the true loser. The lawyer has a better chance of being a good man as a peacemaker since there will still be enough business. Globalization is causing the world to converge. Its legal impact can be observed in the growing number of multilateral treaties, conventions, and accords within the EU and WTO, which have led to modifications in domestic law to fulfil both regional and international commitments. [2]

While it is important to comprehend the characteristics of each national legal system, attempting to resolve legal disputes through a regional or global strategy is likely pointless. The researcher conducted a limited investigation into the ADR practices of several nations. [3] The paper examines the distinctive features of alternative dispute resolution

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[2] ANURAG K AGARAWAL, RULE OF ALTERNATIVE DISPUTE RESOLUTION METHOD IN DEVELOPMENT SOCIETY,47-89 (3[ed] ed.,2008)

[3] I*d*

(ADR) techniques that are effectively used in the US, UK, Australia, China, and Japan. These techniques may be popularized and adapted in accordance with Indian conflict resolution systems. [4]

**USA: United States of America**

The United States' alternate dispute resolution process predates both the Constitution and the Declaration of Independence. To resolve conflicts largely pertaining to the apparel, printing, and merchant seaman businesses, arbitral tribunals were founded as early as 1768 in New York and shortly afterward in other cities. [5]Both in domestic and international trade, the United States has firmly recognized and supported the implementation of arbitral rulings and agreements to arbitrate disputes. [6] The United States Supreme Court affirmed an arbitrator's authority to render legally binding decisions in a decision made in 1854, holding that courts should support arbitration as a means of resolving disputes. Justice Grier, writing on behalf of the Court, stated that the arbitrators are the judges selected by the parties to render a definitive decision on the subject presented to them, devoid of the need for an appeal. The Federal Law and State statutes are the two main sources of arbitration law in the United States. Federal statutory laws are enacted by the National Congress and they control topics falling within federal jurisdiction.

The Federal Arbitration Act, which was initially passed in 1925, contains the federal statutory law of arbitration. Since then, it has undergone multiple amendments. It is limited to conflicts that arise in federal courts. To put the United States' admission to the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards into effect, an amendment was enacted in 1970. Furthermore, the legislatures of nearly every State in the union have passed legislation pertaining to arbitration. The model law of the Uniform Arbitration Act, which was first established in 1955 and revised in 1956, serves as the basis for state statutes. Though they vary slightly, most state statutes adhere to the same broad principles as the Federal Arbitration Act. [7]

Early English government power in the United States gave rise to arbitration law. The New York Stock Exchange's 1817 Constitution included provisions for member disputes to be arbitrated, and the New York Chamber of Commerce had arbitration facilities from 1761 to 1920. However, there are many references to specific cases in the Statute Books of Arbitration, such as disputes against Corporation Stockholders[8]. In court, the constitutionality of arbitration was questioned. It has been determined that compulsory arbitration is illegal if it is not coupled with adequate mechanisms for an appeal to the regular courts. The use of arbitration in business disputes has become more popular in the US despite legislative intervention and court scrutiny. This tendency can be attributed in large part to the influence of trade associations such as the Chamber of Commerce. The first arbitration records, which comprised of its committee minutes from 1779 to 1792, have been produced by the New York State Chamber of Commerce. Acts requiring arbitration have been established by a few US states in an effort to expedite court proceedings for specific claims, like small claims and auto accidents. The customary equity-based court jurisdiction is not covered by these statutes. In the Yearbook on Commercial Arbitration in the United States for 1927, a comprehensive compilation of arbitration facilities offered by Chamber of Commerce Exchanges, Municipal Courts, Legal Aid Society, and Bar Associations was presented. In addition to forms, regulations, and rules for arbitration, the book featured a panel of arbitrators affiliated with Trade Associations representing thirty prominent sectors of commerce. [9]

The Federal Arbitration Act covers contracts that document commercial transactions involving commerce between the several US states or with foreign nations, as well as arbitration related to maritime activities. For other circumstances, the arbitration legislation of the State in which it is held is normally applicable. [10]Nonetheless, in every given situation, the parties must to think about and refer to the applicable State's arbitration law. Due to a philosophy that mandates the Federal Court in many situations resolve certain arbitration-related issues in conformity with the laws of the State in which the Federal Court is located, this is significant even in cases where the case is before the Federal Court. [11]

Although litigation was the main means of resolving disputes, mediation has long been employed on an as-needed basis in the United States. To mark the 70th anniversary of Dean Rosco Pound's dissertation on "Public dissatisfaction with the American legal system," the Pound Conference was organized in 1976. The conference examined closely the

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[4] SARFARAZ AHMED KHAN, LOK ADALAT: AN EFFECTIVE ALTERNATE DISPUTE RESOLUTION MECHANISM, 88-102(14th ed.,2006)
[5] DR. K.S. CHAUHAN ALTERNATIVE DISPUTE RESOLUTION IN INDIA,278-292(4th ed., 2011)
[6] *Residents of Sanjay Nagar* v. *State of Rajasthan*, AIR 2004 Raj 116
[7] I*d*
[8] N R Madhavan Menon, *Lok Adalat: People Programee For Speedy Justice*, Vol. 13 (2): ,INDIAN BAR REVIEW, 189,(1986)
[9] SATHHPAL PULIANI ,KLJP'S THE LEGAL SERVICES AUTHORITIES ACT, 76-88 (11th ed.,1987, 2003)
[10] I*d*
[11] ALEXANDER BEVAN, ALTERNATIVE DISPUTE RESOLUTION,39-44 (4th ed., 1992)

factors that led to criticism of American courts. The overburdened and expensive court system in America was one of the factors contributing to criticism of justice administration. [12] The 1976 Pounds Conference marked the beginning of the American ADR movement. In commercial disputes involving the fulfilment of contracts, the quality of goods, and a wide range of other issues that can be resolved via mutual agreement between the disputing parties, arbitration is widely employed in the United States of America. [13] There has been a significant increase in the development of alternative dispute resolution (ADR) programs and their utilization by federal and state courts since the passage of the Civil Justice Reforms Act (CJRA) 1990, which mandates that each federal district Court create a plan for reducing civil justice expenses and delays. A growing number of courts have released regulations requiring judges to recommend, approve, or compel alternative dispute resolution (ADR) processes such early mediator evaluation, mini-trials, summary jury trials, mediation, and arbitration. Eighty-four Federal District Courts had approved or started an alternative dispute resolution (ADR) program as of September 1995. In America, alternative dispute resolution techniques have proven to be so effective that the District Court of Colombia launched a voluntary mediation program in 1989. By 1997, it's estimated that over 1,000 cases had successfully completed mediation. Additionally, the initiative claims a 50% settlement rate. [14]

In Native American tradition, the main approach to overcoming problems is to make peace. Conflicts are resolved by addressing the root cause of the issue and mending relationships. The founding of the American Arbitration Association can be considered the institutionalization of ADR in the United States. The American Arbitration Association (AAA), which was established in 1926 in response to the need for an arbitration organization capable of handling all types of claims in all regions of the United States of America, is the main arbitration institution. It is a stand-alone, nonprofit, nongovernmental organization. A diverse array of sectors, professions, and social groups from around the country comprise the Board of Directors that oversee the organization. It is administered by a full-time professional staff of experts in arbitration law and procedure. The Court of Appeals for the District Court of Columbia has also added a mediation program to its 1986 Case Management plan, which was started in response to a 60% increase in cases filed and pending over the previous two years. The primary distinction between these two initiatives is that, in the case of the Appeals Court program, cases are chosen for mediation by the Chief Staff Counsel of the Court, while the District Court program is entirely voluntary. [15]

In the year 1994 , a survey by the CPR Institute for Dispute Resolution of the major law firms in the United States. Of these firms, 244 had indicated interest in alternative dispute resolution via CPR Institute membership. 68% of the 124 responding organisations had implemented two or more of the subsequent organisational strategies; 65% of the responding companies had formalised their provision of ADR services. A selection of strategies includes the selection of an Alternative Dispute Resolution (ADR) specialist or partner (58 percent), the creation of an ADR committee or department (47 percent), the strategic profiling of one or more prominent partners as neutrals (27 percent), and the establishment of a distinct provider group within or affiliated with the firm's structure (14 percent). Research has revealed that there are substantial variations in the perceived advantages of alternative dispute resolution (ADR) between organisations that have established an ADR department as an institution and those that have not. Positive client feedback has been received in response to ADR initiatives by 59% of organised firms and 35% of unorganised firms, respectively. [16]Additionally, ADR has had a notable positive impact on the firm's lawyers, clients, and practice, with 49% of organized firms reporting this information compared to 21% of unorganized firms. Just 2% of unstructured enterprises and 37% of organized firms, respectively, reported gaining new business or clients because of their ADR knowledge.

Numerous American towns and states, including Columbia, New Jersey, Houston, and Philadelphia, among others, currently provide multi-door programs. Through the program, the public can contact the Court with a complaint or dispute, either in person or over the phone. In order to determine which conflict resolution procedure is most suited to handle the issue, a preliminary examination of the case must be completed. [17] This process will be subject to a number of criteria, such as the nature of the difficulties at hand, the potential amount of compensation granted in the event of a successful outcome, the necessity of witnesses or other supporting documentation, the need to preserve rights, and the services that are offered. After receiving pertinent referral information—which could point to

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[13] I*d*
[14] ASHWANIE KUMAR BANSAL, ARBITRATION AND ADR,289-300 (2nd ed., 2005)
[15] I*d*
[16] K. JAYACHANDRA REDDY, ALTERNATIVE DISPUTE RESOLUTION, 79 (5th ed.,1997).
[17] ANIRUDH WADHWA AND ANIRUDH KRISHNAN (EDS.), R.S. BACHAWAT'S LAW OF ARBITRATION AND CONCILIATION,301-322 (5TH ed., 2010).

departments within the Court or possibly outside organizations—the party making the inquiry is then informed about the procedures that might be most suited in this case.

Furthermore, the Supreme Court's judges are pushing litigants to settle their conflicts through the use of both public and private alternative dispute resolution procedures. Apart from the aforementioned State initiatives, Special Courts providing comparatively quick resolution of business conflicts have been established in three major cities: New York, Chicago, and Wilmington. The New York State Supreme Court's Commercial Division is only focused on business issues and is dedicated to facilitating settlement through accelerated proceedings. This Court has four judges who hear cases all the way through. This has several benefits, speed being the most apparent. These judges' specialization helps them gain subject-matter expertise. Before it was put into effect, every judge had about 1,000 cases that were outstanding. The Court's dedication to accelerating processes and promoting settlement whenever possible resulted in a one-year decrease in the average caseload per judge to 400 cases.

Judicial settlement conferences and settlement weeks have produced a high success rate in the United States of America. 'Rent a Judge' or private judging has been made legal in some U.S. federal states, including Texas, California, New York, Oregon, and Ohio. If implemented, the American-developed multi-door courthouse system may increase access to justice and facilitate quicker, more cost-effective conflict settlement.

Only a small percentage of cases in the USA—where alternative dispute resolution (ADR) has been used in every state court since the 1970s—go to trial; instead, advocate and judicial mediation settle over 90% of all pending cases. But it took the American court system more than 20 years to reach this level of achievement. In the United States, advocate mediation followed judicial mediation as the initial method of introducing mediation. This success percentage in the United States is mostly due to the large pool of qualified advocate-neutrals.

Judicial mediators are saved for the most complicated cases and those that advocate neutrals have failed to settle in the high-volume court systems in the United States. Advocate neutrals are depended upon to settle the bulk of cases in these systems. The United States of America offers a wide range and complexity of alternative dispute resolution procedures. Initiatives from the executive, legislative, and judicial branches of government, as well as from a variety of private sector organizations, corporations, and the bar, have led to an increase in the use and development of alternative dispute resolution techniques. The use of alternative dispute resolution techniques is growing due to the inclusion of these techniques in more domestic and international business agreements as well as the widespread publication of ADR success stories. [18]

**UK, or United Kingdom**

In England, arbitration is as old as the country's legal system. Even in cases where the agreement specifically stated that the submission was irrevocable, the parties may, under Common Law, withdraw the arbitrator's power at any point prior to the ruling. The majority of the disputes' topics were limited to chattel and tort. Arbitration was often used to settle commercial disputes as a result of the growing trade and development of the British Empire, which led to a rise in disputes between merchants and traders. As a result, there were far fewer court trials involving commercial matters. There was a strong bias in English courts against arbitration. Arbitration was perceived as an effort to subvert the court's authority. The earliest piece of law promoting arbitration was the Statute of 1698. The 1833 Statute came after it. The general law about arbitration was codified by the England Arbitration Act of 1889 and the Common Law Procedure Act of 1854. It separated the arbitration's subject matter into two categories: references made with the parties' consent outside of court, and references made by court orders. [19]

The Act mandated that an arbitral submission for the former be made in writing. Unless otherwise stated, the submission was final and could not be changed without the court's or a judge's approval. An arbitrator was not accountable for negligence or lack of expertise in handling the dispute. Arbiters had the authority to administer oaths. An award needed to be given within three months of the date of entering the reference, barring any explicit provisions in the submission. The award was required to resolve every issue that was sent to arbitration. Regarding referrals made according to court orders, a judge or the court may refer any question on any cause or case to a Special Referee official, the report of whom may be enforceable as a judgment or order. The Act of 1889 served as the basis for later arbitration-related laws in England. [20]

[18] N R Madhavan Menon, *Lok Adalat: People Programee For Speedy Justice*, Vol. 13 (2): ,INDIAN BAR REVIEW, 189,(1986)
[19] SARFARAZ AHMED KHAN, LOK ADALAT: AN EFFECTIVE ALTERNATE DISPUTE RESOLUTION MECHANISM, 88-102(14th ed.,2006)
[20] I*d*

However, it cannot be said that the England Arbitration Act of 1889 and the later arbitration-related laws comprise the entirety of the English arbitration law. It is possible to exclude several of the statutory provisions. The arbitrator's process and the authority bestowed upon him were up to the parties to decide. By agreement, the parties could choose the arbitral tribunal's composition to settle the issue. In arbitration, the side had access to all of the legal defenses that they had in court. [21]

The Arbitration Clauses (Protocol) Act of 1924 was enacted to ratify and implement the Protocol signed at the League of Nations assembly and to prescribe the procedure to be followed in commercial arbitration between parties subject to the jurisdiction of the signatory states. A convention regarding the execution of arbitral judgments was established, and the Arbitration (Foreign judgments) Act of 1930 amended the Protocol Act of 1924. The Supreme Court of Judicature (Consolidation) Act, enacted in 1925, overturned and substituted certain provisions of the Arbitration Act of 1889. The Act of 1889 underwent substantial amendments through the enactment of the Arbitration Act of 1934.[22]. The Arbitration Act of 1950 combined these two provisions. On September 1st, 1950, the Arbitration Act, of 1950 became operative. It outlined the process for handling arbitrations that are the outcome of a written contract between the parties and those that are carried out under legislative requirements. Many of the provisions of the 1950 Act are not required to be followed if the parties to a dispute agree. [23]

Due to significant ambiguity and misunderstanding in English arbitration law, the Departmental Advisory Committee (DAC) found that there were fundamental issues with the way the Arbitration Law of England was presented. The DAC suggests that new and improved arbitration-related laws be created. This is how the 1996 Arbitration Act came to be. The 1996 Arbitration Act has superseded the 1950 Arbitration Act, save for Pt II, which deals solely with the execution of a restricted number of foreign awards. The Act of 1996 re-enacts the remaining clauses after making the necessary changes. While the structure and content of this Act 1996 are mostly based on the UNICTRAL Model Law, it does not embrace it in its entirety. On June 17, 1996, the Queen granted her assent to the Arbitration Act of 1996, which became operative on January 31, 1997. This Act incorporates the most recent advancements in regulatory regulations while combining the principles of arbitration law with institutional practices. The 1996 Act is a model statutory framework for overseeing an international arbitration case since it comprehensively combines doctrine and practice. The principles of limited court involvement, party autonomy, and a prompt, affordable, and equitable trial by an impartial tribunal underpin the operation of the Act of 1996. These guidelines should be taken into consideration whenever there is any doubt about the interpretation of any section of the Arbitration Act of 1996. Many Commonwealth nations and the United States of America derive their arbitration laws primarily from the English Common Law of Arbitration and the English Arbitration Act. [24].

Given the Woolf Reforms, mediation is probably going to play a bigger role in England and Wales' dispute resolution system going forward. As part of its duty to actively manage matters, the Court is now required by Civil Method Rule 1.4(2)(e) to urge the parties to use an ADR method if the Court deems it appropriate and to facilitate the adoption of such a procedure. While some attorneys in the City of London and other circles have glorified mediation as a means of settling big business disputes, very few kinds of disputes cannot benefit from the early and efficient use of alternative dispute resolution (ADR) due to the significant cost savings that can be realized.

In the coming years, alternative dispute resolution methods in the UK are expected to gain a lot of traction due to their ability to provide innovative solutions, provide a quick and affordable resolution that the parties can work through, and strengthen rather than damage ongoing business relationships. The quantity and variety of competent, certified mediators will increase as lawyers use alternative conflict resolution services more sophisticatedly and choose the mediators who are most appropriate for a particular issue, along with their clients.

## AUSTRALIA

A federal state is Australia. The Commonwealth of Australia's Constitution allocates authority to the Federal Government and the State Governments. Conventionally, state and territory laws—rather than Commonwealth laws—have governed arbitration. The Commonwealth Parliament enacts laws on international commercial arbitration, trade

[21] P.C. RAO, ARBITRATION AND CONCILIATION ACT, 1996: THE CONTEXT" IN P.C. RAO AND WILLIAM SHEFFIELD (EDS.), ALTERNATIVE DISPUTE RESOLUTION, 82 (15th ed.,, 1997)

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[23] ANURAG K AGARAWAL, RULE OF ALTERNATIVE DISPUTE RESOLUTION METHOD IN DEVELOPMENT SOCIETY,47-89 (3ed ed.,2008)

[24] H.K. SAHARAY, LAW OF ARBITRATION AND CONCILIATION,81-94 (8th ed.,2001)

and commerce with other nations, and external affairs. The 1958 New York Convention is given effect to by the Arbitration (Foreign Awards and Agreements) Act 1974. The statutes and common law of the various states and territories contain all additional legal provisions about commercial arbitration. Arbitration is frequently used to resolve construction disputes resulting from insurance contracts. Arbitration is becoming more and more common in agreements involving Australia and other parties and containing an international element. This is because arbitration can help avoid conflicts of law and, ever since the 1958 New York Convention was ratified, can also help with the recognition and enforcement of foreign arbitral awards. [25]

Consequently, federal and state laws, common law—a body of judge-made law—and international treaties serve as the foundation for Australian arbitration law. Due to its membership in three international agreements on arbitration, Australia has implemented international arbitration domestically through the federal International Arbitration Act of 1974 (IAA). Through the provisions of Part II of the IAA, the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) is implemented. By Part III of the IAA, the 1885 UNCITRAL Model Law on International Commercial Arbitration is rendered enforceable in Australia. Part IV implements the Washington Convention (1975) on the Settlement of Investment Disputes between States and Nationals of Other States. Each Australian territory and state have ratified the Commercial Arbitration Act (CAA), which serves as the uniform arbitration statute.

There was no national accreditation program in place for alternative dispute resolution procedures in Australia. On the other hand, it appears that the National Mediation Accreditation Standards system has entered its implementation phase after the National Mediation Conference in May of 2006. In Australia, mediation is becoming a recognized process for resolving domestic conflicts. The last several years have seen a notable increase in its popularity. It has become especially significant in the context of family law and neighborhood issues. [26]

It is also applied to contractual and non-contractual commercial issues. Specialized organizations have been established to support or encourage mediation, and a variety of training programs are available to teach mediation skills and procedures. ADR practitioners understand that the most important professional accreditations should be given to mediators (as opposed to arbitrators or conciliators). Many Australian organizations do have broad and thorough accreditations for mediators; nevertheless, those who employ mediation are unaware of the specific accreditation level needed to ensure the quality of service they receive. The required amount of specificity and the mediation will typically influence the standards. It would be extremely impossible to have a set of standards that could apply to all ADR processes given the great variety of ADR procedures that are carried out; instead, standards should be created for specific ADR procedures. [27]

The customers want to know that mediators get continual training and assessment throughout their careers. Different requirements must be met by mediators to be accepted into different mediator panels. Furthermore, the standards for what constitutes a good mediator vary throughout mediator organizations, which in turn reflects the organization's accreditation and training. ADR practitioners are chosen based on the needs of the service; yet, when institutions, like the Court, wish to recommend a client to mediation, they typically have to rely on word-of-mouth or their internal mediators. This presents a challenge. The standards are not uniform. It's possible that a national accreditation system would raise the standards of ethics and quality in mediation and make it more accountable. To create uniformity and clarity, mediators throughout Australia require a single accreditation process. The variety of fields that may use mediation as a tool for conflict resolution makes it difficult to determine what kind of education and training is appropriate for mediators. The educational prerequisites for mediator accreditation vary among accrediting organizations and nations. Some states have laws requiring these things, and some professional associations have standards that applicants must meet to be approved for membership. [28]

In Australia, professionals who wish to practice family law must complete five days of mediation training, at least ten hours of supervised mediation, and postsecondary degrees in law or social science. Every 12 months, they must also complete 12 hours of mediation instruction or training. Units in mediation are offered by postsecondary educational institutions worldwide in a variety of subject areas, including the humanities, social sciences, law, and business. Since some areas of mediation work in Australia focus more on practical skills than theoretical understanding, not all disciplines of mediation work require academic credentials. To this aim, membership organizations like LEADR offer training programs to promote the acceptance and use of mediation. The CEDR organization operates on a global scale

[25] O.P. MALHOTRA AND INDU MALHOTRA, THE LAW AND PRACTICE OF ARBITRATION AND CONCILIATION,369-377 (2nd ed.,2006)

[26] G.K. KWATRA, ARBITRATION & ALTERNATIVE DISPUTE RESOLUTION,44-51 (3rd ed.,2008).

[27] I*d*

[28] I*d*

and approaches mediation training similarly. There are no officially established national or international standards for education that should be followed by all organizations that represent mediators. [29]Nonetheless, groups like Australia's National Alternative Dispute Resolution Advisory Council (NADRAC) still push for a broad approach to these problems. In other jurisdictions, like Germany, where a greater degree of educational training is advocated for mediators, different systems are in place.

There is a tendency among professionals to establish their own set of standards of behaviour that are unique to their membership. Illustrative instances of this phenomenon in Australia include the mediation codes of conduct established by the Law Societies of Western Australia and South Australia, in addition to those developed for members of the Institute of Arbitrators & Mediators Australia (IAMA) and LEADR. As part of their mission to promote peace through education, several organisations, such as the American Centre for Conflict Resolution Institute, have developed in-person and online courses. The European Commission, the CPR Georgetown Ethics Commission, and the Mediation Forum of the Union International des Avocats have all issued codes of conduct for mediators. [30]

The most prevalent elements of a mediator code of conduct are the obligation to educate participants about the mediation procedure, the requirement to maintain objectivity toward each party, and the disclosure of any potential conflicts of interest. Any information gathered by the mediators should be treated as confidential, as required by the need that a mediator conduct the mediation impartially and within the confines of the legal framework within which it is conducted. The mental and physical health of each mediation participant should be taken into consideration by the mediators. Rather than providing participants with legal advice, the mediators should point them in the direction of suitable resources for any guidance they may require. The mediators ought to endeavor to preserve their abilities through continuous instruction in the mediation procedure. Mediators ought to limit their activity to areas in which they are proficient due to personal training or experience. [31]

Australia has fully adopted mediation into both the family law dispute resolution procedure and the most recent round of industrial relations reforms under the Work Choices amendments to the Workplace Relations Act 1996. In situations when there is a possibility of a continuous disagreement between the involved parties due to intractable differences resulting from factors like conflicting religious or cultural views, mediation can function as a means of promoting dialogue and understanding. In addition to being a technique for resolving disputes, mediation can also be used to avoid disputes. By identifying shared interests and encouraging efficient communication between the two sides, mediation can help speed up the contract negotiation process. Recent enterprise bargaining negotiations in Australia are two instances of how mediation has been used in this way. [32]

In order to gather information and solicit opinion from interested parties during the formulation or fact-finding stages of policymaking, governments might also employ mediation. In a broader sense, mediation can be used to avoid conflict or create plans for handling it when it does occur. By passing the Native Title Act 1993, the Australian government aimed to allay the worries of a sizable segment of the populace and business community regarding the decisions' effects on land tenure and use. The Act's use of mediation as a process to ascertain future native title rights within Australia is one of its main features. The Act aims to encourage mediation through a procedure that involves the Federal Court and the National Native Title Tribunal (NNTT), without excluding litigation. [33] This approach is more likely to achieve sustained success as it provides flexible and practical solutions to meet the needs of various stakeholders. The extensive utilization of mediation in native title disputes does not impede the referral of cases to the courts for resolution or the occurrence of mediation during pending legal challenges. In situations where it is ascertained that native title rights encompass a substantial portion of the municipality, formal legal appeals processes are employed in conjunction with mediation. Indigenous Land Use Agreements (ILUAs) are an essential element in the process of Native Title mediation. native title claimant groups and other stakeholders, including miners, pastoralists, and local governments, negotiate these legally enforceable agreements that resolve land use concerns and any future actions, such as the issuance of mining leases. [34]

[29] D.P. MITTAL, TAXMANN'S LAW OF ARBITRATION, ADR & CONTRACT ,29-33(2ND ed.,.2015)
[30] I*d*
[31] I*d*
[32] SATHHPAL PULIANI ,KLJP'S THE LEGAL SERVICES AUTHORITIES ACT, 76-88 (11th ed.,1987, 2003)
[33] ANURAG K AGARAWAL, RULE OF ALTERNATIVE DISPUTE RESOLUTION METHOD IN DEVELOPMENT SOCIETY,47-89 (3ed ed.,2008)
[34] I*d*

## CONCLUSION

A cursory examination of the global landscape of alternative dispute resolution mechanisms indicates the prevalence of these techniques and their application in these nations. These distinctive experiences and methods can assist the disputing parties, institutions, and individuals in adopting, utilizing, and selecting the appropriate form of dispute resolution procedures. Given the current situation and conditions in India, this distinctiveness can be embraced with the necessary modifications. In the end, this will benefit the nation's and its citizens' social, economic, and legal development. The effective use of various alternative dispute resolution techniques by the disputing parties can result in a swift, affordable, and win-win resolution of the dispute, enhancing social harmony and peace and lessening the issue of court arrears and delays.