Comparative Analysis of The Role of Enforcement of Alternative Dispute Resolution Mechanisms In India And The United States of America

Shreeja Saxena
SVKMS NMIMS

Abstract - **The problem of pendency of cases in the judicial system around the world has created a consistent interest in alternative dispute resolution mechanisms as a tool of effective and accessible justice delivery systems. India and the United States of America are among the countries that have established a highly developed and elaborate legislative and institutional structure to promote alternative dispute resolution mechanisms. However, the manner of enforcement and supervision of the alternative dispute resolution mechanism varies significantly between the two countries.**

This paper seeks to establish the comparative analysis of the alternative dispute resolution mechanism in India and the United States of America by examining the historic background of the alternative dispute resolution mechanism and the legislative and institutional structure of arbitration, mediation, conciliation, and the Lok Adalat mechanism, which is a unique mechanism of alternative dispute resolution.

However, despite the highly developed structure of alternative dispute resolution mechanisms in India and the United States of America, lacunae exist in the enforcement of the alternative dispute resolution mechanisms in the two countries. In India, the problem of judicial over-intervention and public policy exceptions, the lack of infrastructure of institutional arbitration in Tier 2 and Tier 3 cities, and the delay in the implementation of the Mediation Act of 2023 are some of the lacunae in the alternative dispute resolution mechanism.

In the United States of America, the Federal Arbitration Act of the United States of America has been widely praised and accepted as a highly effective piece of legislation in the promotion of arbitration as a tool of alternative dispute resolution mechanism. However, the Act has also received considerable criticism on the grounds of the expansive scope of the Act's pre-emptive scope of the Federal Act on State law consumer protection provisions and the failure of the Act to deal with the problem of oppression in the context of class action waivers.

Therefore, the purpose of this study is to critically analyse and compare the role of the enforcement mechanism of the alternative dispute resolution mechanism in India and the United States of America by examining the relevant regulations and reform-oriented recommendations of the alternative dispute resolution mechanism in the two countries.

Key Words: **Alternative Dispute Resolution, India, United States, Arbitration, judicial intervention, Federal Arbitration Act, Arbitration and Conciliation Act**

I. INTRODUCTION

The explosive rise in commercial activity, the increasing complexity of disputes, and the perennial congestion of judicial dockets have collectively propelled ADR to the forefront of legal policy in both India and the United States. ADR broadly includes arbitration, mediation, conciliation, negotiation, and Lok Adalat. ADR is an attractive alternative to traditional litigation.

In the case of India, the failure of the precolonial community-based dispute resolution system due to British colonisation, coupled with post-independence judicial congestion, created an immediate need to develop an institutionalised ADR system. The Arbitration and Conciliation Act, 1996 ("ACA 1996"), based on the UNCITRAL Model Law, marked the beginning of India's official commitment to ADR as a primary method of dispute resolution.

In contrast, the United States has had an established history with arbitration. The Federal Arbitration Act of 1925 is one of the first legislative recognitions of the binding effect of arbitration agreements. The simple but potent mandate of the FAA that the "written agreements to arbitrate 'shall be valid, irrevocable, and enforceable' has been supplemented over the years with Supreme Court jurisprudence to grant arbitration agreements the status of a 'super-statute' that overrides even hostile state legislation.

In spite of both nations' official espousal of ADR, both nations have significant problems with regard to the enforcement of arbitration agreements. The Section 34 challenge mechanism under the ACA 1996 has been repeatedly misused to delay the enforcement of arbitral awards, thus defeating the very purpose of ADR.

In the case of the USA, although the FAA has been upheld by the Supreme Court, the expansion and application of the FAA in the consumer and employment arena have given rise to much controversy, with the consequence that the rights of the weaker party are being taken away

In the above, it is evident that although the USA and India have adopted the concept of ADR as an essential mechanism to overcome the inefficiencies that are inherent in the traditional litigation process, the application and implementation of the same have given rise to an interesting phenomenon, wherein the formal commitment to the implementation of the same is high, as is evident from the adoption of the concept of ADR in the case of India through the implementation of the Arbitration and Conciliation Act, 1996. However, the analysis of the two jurisdictions has clearly indicated that the success of the concept of ADR is not dependent on the legislative scenario, but on the attitude and approach of the judiciary.

Legislative Framework of ADR in India

The journey towards the formalisation of Alternative Dispute Resolution (ADR) in India was initiated by the Panchayat system, an indigenous and informal form of dispute resolution based on ancient Indian law. The Kulas, Srenis, and Parishads functioned as informal arbitral centres in ancient India. The formal inception of the law relating to arbitration is marked by the Arbitration Act, 1940, applicable to both domestic and international arbitrations, although the same was found to be wanting as the judiciary was excessively involved.

The Malimath Committee's report, 1989, emphasised the need to tackle the large backlog of cases in Indian courts and the formalisation of Alternative Dispute Resolution mechanisms, namely, arbitration, mediation, and Lok Adalats. The ACA 1996 was enacted by Parliament after the accession of India to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958, replacing all earlier legislation and making the law applicable to international arbitrations in conformity with international best practices.

The ACA 1996 is the principal legislation governing domestic and international commercial arbitration in India. Part I deals with domestic arbitration, while Part II regulates the enforcement of foreign awards under the New York and Geneva Conventions. The landmark amendments to the ACA in 1996, 2015, 2019, and 2021 are a step towards filling the structural gaps in the ACA of 1996.

The 2015 Amendment to the ACA 1996 prescribed time limits for the conclusion of arbitration (twelve months, extendable to eighteen months), disclosure requirements for arbitrators, and an automatic stay of the award on the filing of an application for setting aside. The 2019 Amendment established the Arbitration Council of India (ACI) to grade arbitral institutions and accredit arbitrators, a policy shift towards institutional arbitration. The 2021 Amendment clarified the requirements for interim measures and the independence of arbitrators.

The draft Arbitration and Conciliation (Amendment) Bill, 2024, based on the recommendations of the T.K. Viswanathan Committee, proposes to introduce a statutory regime for emergency arbitration, enforce emergency arbitrator orders, and empower arbitral institutions to exercise powers conferred on courts. The amendments reflect a clear intent to make India a global arbitration hub.

For decades, mediation in India was developed through the directions and procedures set under the Code of Civil Procedure, 1908, under Section 89. The Mediation Act, 2023, is a major milestone in the development of mediation law in India. The Act requires mediation in all pre-litigation civil and commercial disputes, provides a framework for institutional mediation, recognises Mediation Settlement Agreements (MSA) as being legally enforceable, and provides for community mediation.

It has, however, been argued that the Act is deficient in many areas. The most important is the failure of the Mediation Act to provide for the enforcement of mediation settlement agreements arising out of international mediation, as against the provisions of the Singapore Convention on Mediation, 2019 (also referred to as the 'United Nations Convention on International Settlement Agreements Resulting from Mediation'), to which India is yet to be a signatory.

Lok Adalats, set up under the Legal Services Authorities Act, 1987, are the most important and unique contribution of the Indian legal system to the global development of Alternative Dispute Resolution. The Lok Adalats function at the national, state, district, and taluka levels and have shown an astonishing capacity for the disposal of large numbers of cases. The National Lok Adalat held on 12th December 2024 saw the disposal of over 12.76 lakh cases in a single day. The awards made by the Lok Adalats are deemed to have been made by the decree of a Civil Court and are final and non-appealable under Section 21 of the LSAA, 1987.

Legislative Framework of ADR in the United States

The Federal Arbitration Act ("FAA"), codified at Title 9 of the U.S. Code, was enacted by Congress in 1925 as a direct response to judicial hostility towards arbitration agreements. The main substantive section of the FAA, Section 2, provides as follows:

"...an agreement in writing to submit to arbitration any controversy arising between parties to a contract involving commerce to which such writing is attached or incorporated by reference shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract. "

The framework for enforcing arbitration agreements is clear and powerful. Section 3 grants courts the power to stay litigation when there is an arbitration agreement. Section 4 grants parties access to courts to compel arbitration. Sections 9, 10, and 11 govern confirmation, vacation, and modification of arbitration awards. What is more, in Hall Street Associates, L.L.C. v. Mattel, Inc., the Supreme Court held that the statutory provisions governing vacation of arbitration awards outlined in Section 10 are exclusive, and courts cannot add to these provisions through agreement.

All states, except for one, have adopted the Uniform Arbitration Act ("UAA"). Twelve states have adopted the 2000 amendments to the UAA. The framework for arbitration is now federal and state. The FAA applies to all cases within its broadly construed ambit, and its provisions supersede conflicting state statutes.

The Administrative Dispute Resolution Act, 1996 ("ADRA") requires all federal agencies to develop and implement ADR policies. Research undertaken by the Journal of Dispute Resolution (2024) found that mediation was the most frequently used ADR process in federal agencies, with a minimum of twenty-five agencies using mediation. The Federal Mediation and Conciliation Service ("FMCS"), established by the Taft-Hartley Act, is an independent agency that facilitates labour management dispute resolution via mediation and conciliation.

American courts, specifically the Supreme Court, have significantly expanded the FAA's application via a series of landmark decisions. For instance, in the case of AT&T Mobility LLC v. Concepcion, the Supreme Court held that the FAA pre-empts California's Discover Bank rule, which had declared class action waivers in arbitration agreements unconscionable. This has ensured the enforceability of individual arbitration agreements.

In the case of Epic Systems Corp. v. Lewis, the Supreme Court held by a 5-4 majority that the FAA requires courts to compel the enforcement of individual arbitration agreements in employment contracts, even when the employee waives the right to class or collective action.

The American Arbitration Association ("AAA") and JAMS (Judicial Arbitration and Mediation Services) are the two most popular ADR service providers in the US. Statistics compiled by the AAA in 2024 indicate the following: large-dollar case awards were resolved on average up to five times faster than the same cases reaching a verdict in court; 76 per cent of AAA cases closed in 2024 settled before the issuance of the award; and the AAA resolved over 4,500 labour cases in 2024. Revisions to the AAA's 2024-2025 Consumer and Employment Arbitration Rules introduce a range of procedural improvements, including mandatory mediation procedures, expanded arbitrator authority, and standardised preliminary hearing procedures.

Comparative Analysis of Enforcement Mechanism

A. Judicial Intervention and Public Policy Exception

Judicial intervention is arguably the most striking difference between the Indian and American approaches to ADR enforcement. While in India, parties can apply for setting aside an arbitral award on various grounds, including infringement of public policy, as provided for in Section 34 of the ACA 1996, judicial interventions based on an expansive interpretation of public policy infringement are common. As held by the Supreme Court of India in McDermott International Inc. v. Burn Standard Co. Ltd, courts must refrain from reviewing the merits of an arbitral award, yet such judicial interventions are common.

In contrast, the U.S. Supreme Court has adopted an extremely narrow interpretation of the public policy exception. In Parsons & Whittemore Overseas Co. v. Société Générale de l'Industrie du Papier, the Second Circuit held that, in cases involving foreign awards, courts can deny enforcement if it would offend the state's "most basic notions of morality and justice," thereby adopting an interpretation as narrow as possible.

B. Consumer and Employment Arbitration
In terms of consumer and employment arbitration, it is evident that the U.S. has adopted an expansive approach to mandatory arbitration. As highlighted by Epic Systems, all employment disputes can now be referred to individual arbitration. This has resulted in an imbalance in power, with employees losing their right to collective action. The same cannot be said for India, as there has been no extension of mandatory arbitration to employment disputes, although there is an indication of such an extension in the proposed amendments to the 2024 Act.

C. Enforcement of Foreign Awards
India and the US are both signatories to the New York Convention. However, India has been confronted with issues regarding the enforcement of foreign arbitration awards due to the commercial reservation clause provided by Article I(3) of the New York Convention. This clause restricts the enforcement of foreign arbitration awards to those arising out of commercial disputes, which have been left undefined by the ACA 1996. Various High Courts have given conflicting judgments regarding the definition of commercial disputes.
The US courts have been more consistent in the enforcement of foreign arbitration awards. At present, there are 172 signatory countries to the New York Convention, including the US. In the US, foreign arbitration awards will be enforced unless otherwise prohibited by public policy. Part II of the Federal Arbitration Act, which incorporates the New York Convention, has been construed by US courts to mandate enforcement with a strong presumption of validity.

D. Online Dispute Resolution
India has shown promising signs through the NITI Aayog report published in 2021, recommending the integration of Online Dispute Resolution ("ODR") with government-to-citizen and business-to-consumer disputes. The Mediation Act, 2023, recognises online mediation. SAMA and ODR have been pioneers in ODR with respect to consumer disputes. The Reserve Bank of India has made it mandatory to have an ODR system incorporated with respect to failed digital payment disputes. In the US, the AAA rule changes introduced with respect to the 2024-2025 period mandate all mediation to be conducted virtually by default unless otherwise agreed to by the parties.

II. LITERATURE REVIEW

1. Rishi Sharma, “Navigating Disputes Beyond the Courtroom: An Examination of ADR Mechanisms and the Civil Procedure Code in India”(SSRN,2024)
The paper written by Sharma seeks to explore the relationship between ADR mechanisms and the Code of Civil Procedure, 1908, in India. The author seeks to address the provisions of the ACA 1996 in relation to procedural law. Specifically, the author seeks to explore the facilitatory or inhibitory effect of the CPC on ADR. The author conducted interviews to explore the practical challenges in the implementation of ADR.
The author concluded that the CPC has been supportive of ADR by providing in Section 89 and the Order X rules. However, there are challenges in the implementation of ADR in India. Sharma argues that procedural delays and judicial attitudes towards ADR decisions have been a challenge to the implementation of the ACA 1996. The author has based his arguments on the interpretations of the statutes and judicial decisions, which are credible sources in India. This paper is relevant to the research because it addresses the gaps in the implementation of ADR in India, which form part of the argument in the paper on the failure to enforce ADR decisions.

2. “Alternative Dispute Resolution in India: Effectiveness, Challenges and the Road Ahead” (DefactoL Aw Journal,2025)
This article is a comprehensive analysis of the current state of ADR in India. The authors discuss arbitration, mediation, conciliation, and Lok Adalats in various fields. This article assesses the ADR system as a whole, from Lok Adalats for motor accident disputes to institutional arbitration for complex commercial disputes.28 This article reveals that while Lok Adalats and mediation have settled millions of disputes, arbitration has come under severe criticism for delays, high costs, and judicial intervention. The authors have identified a severe shortage of ADR professionals and a lack of trust among Indians towards ADR neutrality. This article is based on statistics provided by NALSA,

government reports, and legislative records. These are highly credible sources.
This source is significant for the present paper as it offers specific information on India's enforcement issues, especially on the misuse of Section 34 for delays in award enforcement. This article's findings are relevant for supporting the present paper's argument on reforming India's ADR enforcement mechanism.

3. “Assessing the Public Policy Exception and Comparative Perspective in Enforcing Arbitral Award: Where Does India Stand?” (American Review of International Arbitration. 2023)
This article discusses the approach adopted by Indian courts on the public policy exception in the enforcement of foreign arbitral awards, comparing it with the approaches adopted by the United States, the United Kingdom, and France. The author examines decisions like Renusagar Power Co. Ltd. v. General Electric Co. and NAFED v. Alimenta S.A. to trace the development of the Indian courts' approach to the public policy exception. According to the author, India has shifted from a liberal approach towards the public policy exception to a narrow approach, which is consistent with international approaches. However, inconsistencies have been noted in investment treaty disputes. This is in contrast to the approach adopted by the U.S. Second Circuit in Parsons, which held that only violations of the "most basic notions of morality and justice" could justify non-enforcement—a narrow approach. This article is published in a peer-reviewed international law journal and is based on Supreme Court and Circuit Court decisions.
This source is relevant because it directly addresses the key comparative aspect of the paper, the public policy exception as an element of uncertainty in the enforcement of arbitral awards in India compared to the absolute enforcement stance adopted by the courts in the United States.

4. “The Way Forward: An analysis of India’s New Guidelines for Arbitration and Mediation in Contracts of Domestic Public Procurement”(American Review of International Arbitration,2024)
This article examines the June 3, 2024, Guidelines issued by the Indian Ministry of Finance for arbitration and mediation in Indian public procurement contracts. In it, the author examines the deviation from the usual arbitration approach and the preference for mediation as the first form of alternative dispute resolution for public contracts.
The author concludes in the article that, despite its good intentions, the Guidelines set a threshold of 10 crores for arbitration, which will only add to the burden of the Indian judicial system, according to the Arbitration Bar of India. In fact, the Guidelines themselves state that "a large majority" of arbitration awards are challenged in the courts.
This article is relevant to the present paper because it presents the latest development in Indian alternative dispute resolution enforcement, highlighting the Indian government's attitude towards arbitration and mediation, which is in keeping with the focus of the present paper.

5. “Year one of the Mediation Act: What India Missed” (NLIU ADR Centre,2024)
This critical evaluation of the Mediation Act, 2023, in India, written after one year of the Act's implementation, discusses the effectiveness of the Act in resolving the backlog and promoting mediation. The paper also discusses the Act's shortcomings in providing a framework for internationally mediated settlements.
The authors conclude that the Act has failed to provide a framework for enforcing internationally mediated settlements, thus rendering India outside the scope of the Singapore Convention. They also conclude that the absence of precision in the procedure for the appointment of mediators and the ambiguity in the issuance of interim orders are the shortcomings in the Act. They have based their arguments on the comparative study of the Singapore mediation framework and the Singapore Convention.
This source is relevant to the paper because it offers a critical evaluation of the Indian Mediation Act and the shortcomings in the Act. These shortcomings in the Act will also be discussed in the conclusion.

6. “Enforcement of Foreign Arbitral Award in India: Issues and Challenges” (International Journal of Legal and Social Science Studies)
This paper deals specifically with the enforcement of foreign arbitral awards in India, and the structural and conceptual hurdles created by the ACA 1996 and the New York Convention. The author also gives a historical account of the development of arbitration law in India and a comparative study with international best practices.
The author has concluded the paper by stating that "Whilst India has made tremendous strides in

becoming a haven for arbitration, the trend towards judicial intervention and the uncertainty over the meaning of the word 'commercial' in the reservation to the New York Convention raise questions over the enforcement of awards."
This source further strengthens the conclusion drawn in the present paper that the structural framework of enforcing foreign awards in India is the weakest link in the Indian ADR regime and that clarification in the law is the need of the hour.

7. “Comparative Analysis of Legal Challenges in International Commercial Arbitration: The Indian Perspective” (National Journal of Law Research and Innovation, 2025)
This article is a detailed comparative study of the ADR systems in India and Western countries. The author discusses the history of ADR in India from the Panchayat system up to the present day under the ACA 1996 system. The author discusses both Adjudicatory and Non-Adjudicatory ADR methods. The author also discusses the hybrid methods of ADR, like Med-Arb and Con-Arb.
The author concludes that the Indian ADR system is heavily inspired by the Western ADR system; however, the cultural, linguistic, and socioeconomic diversity of the Indian population poses an implementation problem. The author concludes that it is not possible to have one kind of enforcement system in such a diverse country as India.
This comparative study is relevant in the context of the present paper because it discusses the inappropriateness of the American system in the Indian context.

8. “ADR in Agency Administrative Programs”(Administrative Conference of the United States, 2021)
This comprehensive report by the Administrative Conference of the United States (ACUS) discusses the use of ADR in federal agencies, analysing the legal framework under the ADRA of 1996. This report discusses the use of conciliation, facilitation, factfinding, minitrial, arbitration, mediation, and ombuds practice. This report is important as it discusses the use of ADR by federal agencies in the US. This is a primary source of information published by the government, which is authoritative in nature.
This source is relevant to the present paper as it shows the institutional depth of ADR enforcement in the US at the administrative level, which is stark compared to the state of ADR institutions in India.

9. “The Impact of the 2024 Elections on Arbitration and Mediation: Insights and Implications” (American Arbitration Association,2025)
This article by the AAA examines the impact of the 2024 US federal elections on the arbitration and mediation field. The article explores the possible federal and state legislative direction with a Republican-led Congress and the return of a business-friendly White House.
The AAA finds that "sweeping anti-arbitration legislation" is unlikely on the federal level, but state-level resistance to mandatory arbitration in consumer and employment cases might grow. The feasibility of the Forced Arbitration Injustice Repeal Act ("FAIR Act") is rated as low. This source is relevant to the paper because it sheds light on the "politics" of ADR enforcement in the US, a relevant comparative fact.

10. Cornell Law School Legal Information Institute, "Alternative Dispute Resolution" (LII, 2024)
This is an authoritative overview of the ADR system in the United States, provided by the Legal Information Institute of Cornell Law School. The overview covers the complete gamut of ADR in the United States, including negotiation, mediation, and arbitration. The overview also covers the federal and state legislative framework in the United States relating to ADR.
The overview points out the following key points about the use of arbitration in the United States:
"Arbitration has long been employed in labour disputes, in the construction industry, and in the regulation of securities. Increasingly, it is being used in other business disputes. Title 9 of the U.S. Code sets forth federal law in support of arbitration. When applicable, the federal law supplants state law. The text is based on primary federal legislative materials and Supreme Court decisions. These materials are the most reliable authority."

Hypothesis
Notwithstanding the existence of comprehensive statutory frameworks governing Alternative Dispute Resolution in both India and the United States, the operational efficacy and enforcement of the ADR mechanism in India and the United States remain comparatively constrained.

Research Questions

1. To what extent do both jurisdictions differ in the legislative framework and institutional frameworks governing the enforcement of the ADR mechanism, and what comparative structural strengths and limitations emerge from each other?
2. How does the judicial intervention impact the enforcement of arbitral awards in the jurisdictions, and particularly in relation to the interpretation of the "public policy" exception and the scope of the judicial review?
3. To what extent does the level of professionalism, standardisation and accreditation of arbitrators and mediators influence the effectiveness of ADR enforcement in both jurisdictions?
4. How effective are Indian and the United States Jurisdictions in enforcing internationally mediated settlement agreements, and what are the implications of the absence or uneven adoption of international frameworks such as the Singapore Convention on Mediation?
5. What are the reforms that are necessary to address the existing deficiencies in ADR enforcement in India and the United States, and how can comparative insights from each jurisdiction inform these reforms?

III. FINDINGS

Building on the conceptual framework set out in the introduction, the comparative legislative analysis of India and the United States, and the critical insights provided in the literature review, this research will now proceed to its core findings. As discussed in the previous chapters, the evolution, scope, and framework of Alternative Dispute Resolution (ADR) in both India and the United States have been elucidated, in addition to the various debates surrounding its effectiveness and enforcement.

The following section will synthesise the various doctrinal and analytical insights provided in the previous chapters in order to evaluate the actual enforcement of ADR in both India and the United States. This section will critically evaluate the extent to which the various structural issues identified in the previous chapters, namely judicial intervention, professionalisation of ADR professionals, enforcement of mediated settlement agreements, and accessibility, are actualised in both jurisdictions. This section will thus seek to evaluate the extent to which ADR is being enforced as a true alternative form of dispute resolution, rather than being used in tandem with litigation.

The findings provided in this section will thus serve to bridge the gap between legislative intent and actual enforcement in both jurisdictions, offering a comparative perspective on the actual enforcement of ADR in both India and the United States.

1. Findings on research question: To what extent do both jurisdictions differ in the legislative framework and institutional frameworks governing the enforcement of the ADR mechanism, and what comparative structural strengths and limitations emerge from each other?

This comparative analysis thus highlights the fact that the FAA system in the USA is providing a structurally cohesive and institutionally robust system in the enforcement of ADR mechanisms. This is largely because of the judicial interpretation and adjudication by the Supreme Court in the USA. The Supreme Court in the USA has, in its landmark judgments in AT&T Mobility LLC v. Concepcion, upheld the federal pre-emption doctrine, where the supremacy of federal legislation over state legislation inconsistent with the arbitration agreement is recognised. Similarly, in Moses H. Cone Memorial Hospital v. Mercury Construction Corp., the Supreme Court in the USA upheld the federal policy in support of arbitration.

In the case of the Indian system of arbitration under the Arbitration and Conciliation Act, 1996, which was amended in 2015 and again in 2019, the system still remains structurally inconsistent in terms of the institutional robustness of the system in the enforcement of ADR mechanisms. The Indian judicial system, which includes the Supreme Court of India, has attempted to bring more clarity to the inconsistencies in the system. The Supreme Court in Bharat Aluminium Co. v. Kaiser Aluminium Technical Services Inc., commonly known as the BALCO case, laid down the principle of territoriality in the enforcement of the award. Similarly, in BCCI v. Kochi Cricket Pvt. Ltd., the Supreme Court in India attempted to bring more clarity to the retrospective application of the amendments in the Act in 2015. The Indian judicial system in the enforcement of ADR mechanisms is still inconsistent in terms of the interpretations of the courts in different states in the country.

Moreover, from the institutional perspective, India has to deal with the ad hoc nature of arbitration and the delays in the procedure for the enforcement of such awards. This was also evident in the case of SsangYong Engineering & Construction Co. Ltd. v. NHAI, where the Court attempted to restrict the meaning of the term "public policy" in the context of setting aside the arbitral awards, thereby aligning Indian arbitration law on par with international standards.

Lastly, the Mediation Act, 2023, marks a significant step in the formalisation of mediation as a form of ADR. However, the failure to align the Mediation Act, 2023, with the Singapore Mediation Convention reflects the absence of robustness in international ADR mechanisms in India, as compared to the U.S., which has taken significant strides in the direction of the formalisation of international ADR mechanisms.

Thus, whereas the United States represents a case study in the structural strengths in ADR mechanisms, as reflected in the clear legislative position, judicial support, and maturity in the process, India represents a case study in the evolutionary growth in the legislative position, yet constrained by the fragmented judicial position and maturity in the process. This is ultimately reflected in the levels of coherence and enforceability reflected in the legislative framework.

2. Findings on research question: How does the judicial intervention impact the enforcement of arbitral awards in the jurisdictions, and particularly in relation to the interpretation of the "public policy" exception and the scope of the judicial review?

The above comparative analysis clearly shows the role of judicial intervention in the enforcement of arbitral awards in both jurisdictions, which is "निर्णायक". However, the difference in the two approaches lies not in the statutes but in the judicial philosophy.

In India, the judicial intervention has been excessive and has gone beyond the legitimate role of the courts, which has adversely affected the finality and efficiency of the arbitral awards. Under Section 34 of the Arbitration and Conciliation Act, 1996, the courts in India have the power to set aside the arbitral awards on limited circumstances, such as a contravention of the "public policy." However, the above exception has been broadly defined. In the case of ONGC v. Saw Pipes Ltd., the Supreme Court of India has extended the meaning of public policy to also cover the concept of "patent illegality."

Although decisions like ONGC v. Western Geco International Ltd. have continued to build on this by adding the test of "fundamental policy of Indian law," the trend of recent decisions is an attempt to balance the scales. In Ssangyong Engineering & Construction Co. Ltd. v. NHAI, the Court attempted to clarify the parameters of public policy by ensuring that "patent illegality" does not involve any re-appreciation of evidence. Nevertheless, the reality is that Section 34 continues to be misused as a delaying tactic, with arbitral awards being subjected to judicial scrutiny for long periods of time. This is because the reality is that arbitration is being treated as an additional layer of litigation.

The approach adopted by the courts in the United States, as governed by the Federal Arbitration Act, is characterised by the highest degree of judicial restraint. This is because the Supreme Court of the United States has always ensured the finality of arbitral awards by strictly limiting the scope of judicial review. This was definitively settled in the decision in Hall Street Associates, L.L.C. v. Mattel, Inc., wherein the Supreme Court held conclusively that the grounds for vacating or modifying arbitral awards under the FAA are exhaustive, thereby excluding any contractual agreement between the parties to expand the scope of judicial review.

Furthermore, in Parsons & Whittemore Overseas Co. v. Société Générale de l'Industrie du Papier (RAKTA), the courts in the United States have adopted a very narrow approach towards the public policy exception by holding that the enforcement of an arbitral award can only be refused on the grounds of violating the most basic notions of morality and justice in the state where the court is located.

Thus, it is evident that while there is an inherent tension between judicial review and arbitration autonomy in the Indian system, which often tips in Favor of judicial review, the same is not true for the U.S. system, which appears to be more arbitration-friendly and follows judicial minimalism. The structural contrast between the two systems is evident from an examination of the role of judicial review and its impact on public policy, which is critical to the enforceability of arbitration awards. The expansive approach followed in India, despite recent developments, continues to hinder the process, whereas in contrast, the U.S. system, through its disciplined approach to judicial review, supports arbitration as final and binding.

3. Findings on research question: To what extent does the level of professionalism, standardisation and accreditation of arbitrators and

mediators influence the effectiveness of ADR enforcement in both jurisdictions?

This is evident from the comparative analysis provided above. The level of professionalism, standardisation, and accreditation of ADR professionals in the two jurisdictions is seen to have an impact on the effectiveness of the enforcement mechanisms in the two jurisdictions. The difference between the two jurisdictions is the level of maturity of the institutions and the regulatory environment in which the ADR professionals in the two jurisdictions operate. In the United States, the ADR process is facilitated by the presence of a highly developed environment in which institutional supervision and professionalisation of ADR professionals are the norm. For example, the American Arbitration Association (AAA) boasts of large panels of ADR professionals, with some panels consisting of over one thousand professionals with specific expertise in different fields. This is likely to enhance the enforceability of the decisions in the jurisdiction since the courts will be willing to enforce decisions made by professionals who have been trained to the highest standards.

On the other hand, the Indian government is still struggling to provide adequate ADR professionals, which is affecting the efficiency of ADR enforcement. Although the Arbitration and Conciliation (Amendment) Act, 2019, introduced the Arbitration Council of India (ACI), which is a statutory body for the regulation of accreditation and grading of arbitral institutions in India, the role of the ACI is still not fully operationalised. It is because the lack of an effective accreditation body is affecting the quality of arbitrators, procedures, and institutions.

Furthermore, although institutions such as the India International Arbitration Centre (IIAC) have been established with the objective of promoting institutional arbitration in the country, their role is still not fully operationalised compared to their counterparts in the US. It is because the number of ad hoc arbitrations is still being conducted in the country, which is not standardised or professionally managed. Similarly, in the case of mediation in India, the lack of standardised accreditation under the Mediation Act, 2023, shows that the transition towards standardised ADR practice is still not fully implemented in the country.

This shows that although the US has standardised ADR practice with the help of accreditation, the Indian ADR practice is still in the transition stage, where institutional reforms have been introduced in the ADR system in the country, with the lack of professional support. It is clear that although the ADR practice in the country is still not standardised, the ADR practice in the US is already at the stage of standardisation.

4. Findings on research question: How effective are Indian and the United States Jurisdictions in enforcing internationally mediated settlement agreements, and what are the implications of the absence or uneven adoption of international frameworks such as the Singapore Convention on Mediation?

The enforcement of the internationally mediated settlement agreements in both countries is structurally limited in the sense that there remains no adoption or implementation of the binding international mediation enforcement agreement or convention, such as the Singapore Convention on Mediation. The lack of such an agreement has significantly affected the predictability of the mediation process as an internationally preferred dispute resolution process.

Regarding the Indian scenario, the lack of ratification of the Singapore Convention remains one of the significant shortcomings in the international ADR scenario in the country. The Indian government has taken significant steps in the development of the mediation process as an ADR process in the country. The lack of ratification of the Singapore Convention has significantly affected the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country. The lack of such an internationally binding agreement or convention is significantly impacting the predictability of the mediation process in the country.

On the other hand, the United States, being a signatory to the Singapore Convention, has also failed to ratify the same. This thus gives rise to a certain level of indecisiveness on the part of the legislative system in enforcing the international mediation obligations. However, the United States has the advantage of a much more developed ADR system, which somewhat compensates for the above limitation. For instance, the United States has been a signatory to the New York Convention for a much longer time and has a much higher degree of certainty in the enforcement of arbitral awards, which in itself serves as a viable alternative to the process of mediation, where the latter might not be fully effective. Nevertheless, the above limitations in the Indian and the United States legal frameworks indicate a much more systemic limitation in the ADR framework as a whole, which relates to the absence of harmonisation in the enforcement of mediated settlements in contrast to arbitral awards. While the latter has been able to attain a much higher degree of international consensus and thus has a much higher rate of enforceability in contrast to the former, the latter has been unable to attain the same due to a much more fragmented adoption and integration of international standards in the domestic context. This thus gives rise to a systemic hierarchy in the ADR mechanisms, where arbitration remains the much-preferred choice over mediation, despite the latter's much superior position.

Thus, it can be concluded that the above findings reflect a particular limitation in the Indian and the United States legal systems with respect to the enforcement of international mediated settlements. However, it can be said that the above limitations would be more significant in the Indian context, keeping in view the more developed nature of the Indian legal system.

5. Finding on research question: What are the reforms that are necessary to address the existing deficiencies in ADR enforcement in India and the United States, and how can comparative insights from each jurisdiction inform these reforms?

The comparative analysis of the ADR enforcement mechanisms in both India and the United States has shown that, despite both having well-developed legislative structures, there is a need for significant reforms in both jurisdictions in order to address the existing gaps and improve the effectiveness of ADR mechanisms. In this regard, in consideration of the comparative analysis, especially in relation to the United States, which has well-developed ADR mechanisms, the following reforms are suggested for India:

1. The Indian Government should immediately ratify and implement the Singapore Convention on Mediation to ensure the enforceability of settlement agreements in international mediation. This will greatly benefit India in its quest to become a global ADR centre.
2. The Indian Government must bring legislative reforms to clearly and exhaustively elaborate on the meaning of 'Commercial' in the context of the Indian reservation under the New York Convention. This will help in eliminating the existing ambiguities in the enforcement of the Convention in India. Establishment of Specialised
3. Dedicated benches in High Courts staffed by judges knowledgeable in arbitration and mediation law can be provided for efficient processing of these applications. This will help in avoiding judicial delays and unnecessary judicial intervention.
4. The effective operationalisation of the Arbitration Council of India can be prioritized. This can include accreditation and training standards for arbitrators and mediators. Building upon institutional frameworks such as those of the American Arbitration Association can be beneficial for enhancing professionalisation and user trust in ADR processes.
5. The Mediation Act, 2023 can be amended to include comprehensive provisions for the recognition and enforcement of international mediated settlements. This can be based on Part II of the Arbitration and Conciliation Act, 1996, relating to foreign arbitral awards.
6. The grounds for setting aside arbitral awards under Section 34 can be narrowly prescribed and more closely aligned to Article V of the New York Convention. This will go a long

way in avoiding unnecessary challenges to arbitral awards and enhancing their finality.

Despite the well-established ADR landscape in the United States, the following key areas need to be filled in to strengthen the ADR system in the country in terms of effectiveness, fairness, and global acceptability:

1. The first key reform in the ADR system in the United States is the ratification of the Singapore Convention on Mediation. The ratification of the Singapore Convention will create a system of uniformity in the enforcement of international mediation settlements. It will not only strengthen mediation as an alternative dispute resolution process in the country, but it will also strengthen the position of the United States in the global ADR landscape.
2. In the case of the United States, the ADR system is governed in different states in the country. The lack of federal guidelines in the ADR system in the country is one of the key drawbacks in the ADR system in the country. The adoption of the Uniform Mediation Act will create more consistency in the ADR system in the country.
3. Although this approach is good from an efficiency point of view, over-privatisation of dispute resolution mechanisms is a source of concern regarding transparency, due process, and fairness. Therefore, the incorporation of mechanisms to ensure judicial review standards are clear regarding procedural unfairness, bias, and imbalance would be an important approach to strike a balance between autonomy and accountability.
4. ADR in the US, especially arbitration, is very costly and thus out of reach for many American citizens and small businesses. Therefore, it is important to introduce cost regulation mechanisms and ensure that mediation is easily accessible and not coercively imposed through arbitration clauses in consumer and employment contracts.
5. Although the US has developed ADR institutions, the standards regarding the accreditation of mediators and arbitrators are very divergent. Therefore, it is important to introduce clear standards regarding the training and certification of ADR professionals to ensure their ethical standards and thus enhance their credibility and quality of service delivery.
6. Although ADR is characterised by confidentiality, this is a source of concern regarding transparency and due process. Therefore, it is important to introduce limited transparency mechanisms to ensure that ADR is not perceived to be secretive and thus undermine the very benefits and advantages that ADR is intended to provide.

IV. CONCLUSION

This paper has attempted not just to compare but to critically analyse and evaluate the structure of the enforcement mechanism of Alternative Dispute Resolution (ADR) in India and the United States. The thesis for the paper, which was to prove the structural deficiency in the Indian ADR system in relation to the American system, has been decisively proved.

The difference in the structure of the two systems cannot be said to be superficial or accidental. It is systemic and based on a fundamentally different approach to the law and its interpretation. It is quite obvious that the American system has clearly institutionalised the judicial minimalist approach to arbitration agreements and awards. This has resulted in the formulation of a predictable and enforceable structure in the resolution. The application of the pre-emptive principle and the discipline necessary to be followed by the judicial approach has resulted in the formulation of a structure where predictability is not just desirable but actually a reality. Enforcement in the American system is certainly not in dispute; it is actually a reality.

India continues to grapple with the paradox of its own making. While the legislative framework is quite obviously clear on its commitment to ADR as a preferred model for resolution, the approach towards enforcement continues to be based on the control of the judiciary. The expansive interpretation of the 'public policy' exception and the application of Section 34 challenges have led to a situation wherein what is quite obviously intended to be a final and binding approach towards resolution is, in reality, a drawn-out and litigation-centric approach. This is not just about the negative consequences of delay; it is about fundamental confusion. The law on arbitration in India is quite obviously endorsed in theory but negated in practice. The State's own recognition of arbitration as merely providing an "additional tier" of litigation is not just accidental; it is damning.

Equally so, the deficit does not lie solely in the judicial arena. While the failure to fully operationalize the accreditation process, the approach towards ad hoc arbitration, and the failure to fully institutionalize the approach towards mediation indicate a system that has focused on the reform of the legislation without fully addressing the issue of institutionalization, the failure to ratify and operationalize international standards on the enforcement of mediated settlements further exacerbates the deficit, especially in a world wherein the measure of any system is based on the ability to be enforced.

The American model, although it has been an extremely effective model in the enforcement of settlements, has been so at the cost of equity in some instances. Although it has shown its strength in the enforcement of settlements, it has also shown its inability to provide equity in the process. For example, the increasing use of mandatory arbitration in consumer and employment cases without adequate judicial oversight has shown the concern for equity in the process. Although it has shown its strength in the enforcement of settlements, it has also shown its potential for being dangerous in terms of over-privatisation. Although the United States is the model for structural strength, it is also the model for the potential for being dangerous in terms of over-privatisation.

What can be clearly inferred from the above analysis is that there is a normative proposition that holds that the effectiveness of ADR is simply not dependent on legislative frameworks, but on their coherence, restraint, and institutionalisation. The challenge for India is not reform but reform discipline. The tools for reform are available, limiting judicial review, operationalising accreditation schemes, harmonising national law with international norms, and institutionalising. The challenge for India is not legislative reform but doctrinal consolidation.

The consequences of the above study are immediate and structural. If India is to succeed in its dream to become a world leader in the field of ADR, then it has to let go decisively of the ambivalence in the regime. Thus, arbitration has to be an alternative or an ancillary to litigation. Mediation has to be more than just a process to be mediated. ADR has to be more than just a collection of processes to be mediated. Above all, ADR has to be more than just a collection of processes to be enforced or mediated. Finally, there is a larger proposition that can be inferred from the above analysis. Thus, ADR will only succeed when the legal system is willing to let go of control in favour of autonomy, but only to the extent of retaining control. The US has been erring on one side of the spectrum – autonomy. India has been erring on the other side of control. ADR will only succeed when there is a resolution between these two extremes by establishing a principle of equilibrium. Until then, the promise of ADR as a system of alternative justice will remain partly fulfilled in both countries.

NOTES

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