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WORLDWIDE HISTORICAL DEVELOPMENTS OF ALTERNATIVE DISPUTE RESOLUTION AND ITS IMPACT IN INDIA

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ABSTRACT

Alternative dispute resolution system has been prevalent in all the civilizations in one way or the other. The developed countries like Britain and America recognized this hidden treasure and codified it. The ADR system burgeoned in these countries and flourished across all over the world. It proliferated through significant developments at the international platforms. The culture of the resolution method in the ADR system of all the countries is interwoven due to globalization. This research paper summarized the historical legislative developments in the field of ADR in India and some of the developed countries like England and America.

KEYWORDS: *Alternative Dispute Resolution System, ADR, Arbitration, Conciliation, Legislation, Mediation*

INTRODUCTION

The quest for justice is an important affair of a nation in which its citizens knock the door of judicial corridors. Justice promotes the public interest and maintains the law and order in a society. Constitution of India mandates justice in every expression like social, economic and political. Justice delivery to every citizen has been a matter of concern for every nation but it becomes a herculean task when it's a nation of rich population, different cultures, and innumerable castes and languages. To tackle the problem, the constitution makers adopted the Preamble to the constitution which aims to achieve its very goal to provide justice in all the spheres of social, economic and political comportments.

The right to equality under the constitution of India ensures the equality before the law and equal protection of the law to every person within the territory of India.[1]It further prohibits discrimination on the grounds of religion, race, caste, sex or place of birth.[2]The right to personal liberty guaranteed under the Constitution imbibed with the principle of natural justice and *audi alteram partem.* Every person has a right to place his viewpoint before the appropriate authorities and to be heard judiciously. These features of Constitution remove the bugs of arbitrariness and provide a system of just and fair trial. The state is also under the Constitutional obligation to take care of the social, economic and political milieu of citizens. Speedy justice is bliss for a citizen. The meaning of justice becomes senseless if it is not being imparted in a reasonable time to the sufferer. In such a case the duties given to a state shall become fruitless. That's why an efficient judicial system is

always required for this task but as discussed earlier a richly populated state cannot justify the reasonableness in the scenario of increasing cases every day. The overburdened judiciary becomes paralyses and a huge backlog formed out. Then, to offload the burden, the system realizes the need of an alternative system to impart speedy justice to the needy and the answer found to this problem is in the name of Alternative Dispute Resolution (hereinafter refer as ADR)

ADR refers to the proceedings for settling a dispute by means other than litigation e.g. by arbitration, mediation, mini-trials[3]. It involves special skills and techniques in whatever procedure it is used. Such procedures which are usually less costly and more expeditious, are increasingly being used in commercial and labor disputes, divorce actions, in resolving motor vehicle and medical malpractices, tort claims and in other disputes that would likely otherwise involve court litigations. An action of law should not cause any harm to the innocent and improperly and excessively to the wrongdoer. ADR system is also very close to the legal maxim 'Alterum non laedere' which means not to injure another. This maxim has been the basis of rule of law for Justinian[4]. On the similar pattern in ADR process, the scope of unnecessary allegations against the opposite party lessens as it is a less formal and the parties join the process with the mindset to settle their dispute. The concept of ADR covers many other terms like facilitated negotiation, conciliation, arbitration, mediation, Lok Adalat, out of court settlement etc., under its wings. ADR method is facilitation provided to the litigants sanctioned by the judicial process, in another way, it may state that it is lesser formal than the court process but a little more ceremonial than the traditional ways of settling the dispute.

CHRONICLES OF COURTS AND ADR SYSTEM IN INDIA

The history of the Indian court's system goes back to the Vedic period. The literature does not witness any established judicial system to resolve the dispute in pre-civilized societies ever known to the scholars. Yet, it is believed that the disputes might be resolved with a power of muscles. Might is always right was the universal policy. The law was on the side the powerful. Later on, the mightiest and the powerful become the king and started ruling others. A system of kingship was originated. The power of the throne became the ultimate authority[5].

The actual journey of law and judiciary begins from the Vedic period. The customary and religious laws were transformed in codified Acts[6]. The main source of law i.e. Sruti which consists of four Vedas and written during the Vedic period. Apart from the Sruti, Dharamshastra and Manusmriti were also written only in the same period. This shastras and Smritis have become the basis of Judgments. Dharmshastra became the guiding principles of court proceedings[7]. During this period, the plaints were referred to as 'Vyavhara','Parvapaksha' and the written statements as 'Uttar'. The judgment was known as 'Nirnaya[8]'. The village councils and family courts were evolved in the system. The disputes among the business classes and traders were decided by their heads and they sometimes sought out the trivial matters by mediating between the parties whereas the court of the king has remained the highest court of appeal[9]. Besides the Vedic period, the transitional changes in the system can be divided into three phases i.e.

Ancient Period

The system of mediating the trivial matters at the lower level of judicial set up gave the birth to Panchayat system. Apart from the trivial, business and trade matters the family and social disputes were also started to be tackled at Panchayat levels. Panchayats became a systematic and structured forum. The senior most five respectable of the village was regarded as Panches and they used to choose a Sarpanch amongst themselves. The five member's body was considered as god's voices. Sometimes they were called as Panch Parmeshwars.[10] Besides Panchayats, the dispute settlement committees like Kulani, Sreni, Puga were formed to resolve the issue between the parties. The concept of mobile courts was also found in the form of 'Pratistha' which used to move from one village to another[11].

Mughal Period

The history of Mughal period keeps a significant place in the judicial system. Mughal period began actually from the rule of Babar. Before him, the afghan rulers used to conquer Indian lands and went back to their headquarters in the Afghan region. Babar planned to rule India. He took care of the fact that the natives should feel protected. He honored their law of land, religion, and customs and gave them the freedom to be governed by their customary rules. He developed a judicial system of his own where the elder respectable religious men used to decide their issues. The highest court was the court of the emperor. A well-organized system was evolved to resolve the legal disputes. However, at the higher level and in case of unresolved disputes, the matters were decided by the Shariat and Quranic laws. The communities were later divided into two parts in the Mughal rule. The believers were given the central place and nonbelievers were considered below them but their security, property and other rights were taken care of in the defined manner andconditions[12].

The state was centrally focused on the subjects of the state like religion, taxes etc. as per the Shariat laws. To evolve new rules and to resolve the disputes based on Shariat the institution of Qazi was established. Qazi was the in charge of the judicial system. The main authority of law was the emperor but the office of Qazi was unavoidable. As a religious expert, he was required to tender advice on the basis of shariat. The best Ulema was usually appointed as Qazi[13]. The emperor was the sole authority to appoint and remove the Qazi. He was authorized to issue Fatwas on the law points. He used to resolve the issues by mediating between the believers of shariat. If needed, he had the authority to pronounce his decision based on the Quranic Laws. In this way, Qazi performs the role of mediator, arbitrator, and a judge. The word 'Qazi' is itself means 'to resolve' 'to settle' or 'to decide'[14].

The judicial system set up by Akbar was the notable one in the history of law. He tried to make his place in the hearts of people. The central idea of administration of justice during his ruling was to render the practice of Aberrant Judgment that is mainly due to the incapacity of mind and the enemies in the shadow of friends. It was used to say by the emperor Akbar that if he himself is guilty then he would pass a judgment against himself[15].

The court of Mufti also came in a picture after Akbar's period. Mufti court became very popular in spite of the fact that it was not recognized by the emperor and the person Mufti was not appointed by him. Later on, Mufti was used to issues Fatwas on the directions of Qazi. He was later authorized to resolve the disputes where Shariat law was not clear. His opinion

was having the force of pronouncement. The nonbelievers also follow the dictate of Muftis when they act prejudicial to the prevalent law.[16]

The office of Muhtasib was the institute established as a law enforcing agency by Caliph Mahdi. This office was entrusted the duty to observe the religious and moral prospects of the people. It had to detect the offenders and to punish them as per the orders. Its main role was to detect any type of commercial dishonesty but when the offence was committed in public. Preventive measures against nuisance, encroachments, obstructions, cruelty, and enforcement of Iddat etc. were also the subject matter of this office. The role of this office was enlarged at the time of Aurangzeb[17].

The concept of lawyers was introduced during the time of Mughals. The representations pleaded through the advocates in the court of Qazi were recognized by the Mughal emperor. Later on, the concept of free legal aid was also introduced during the regime of Shahjahan and Aurangzeb. The Advocates were appointed to contest the cases on behalf of the state. The advocates were also appointed to assist poor litigants in legal matters. This whole time institution of lawyers in the administration of justice was known as 'Vakil-i-Sharai[18]'

Britisher's Period

In 1612, The British Empire entered in India through East India Company in Surat, where they were granted the business right through Sir Thomas Roe by the emperor Jahangir[19]. In eighteenth-century they supported Mir Kasim in a conspiracy against Siraj-ul-Daula. Robert Clive was succeeded in the conspiracy against Mughals and won the battle of Plassey in 1757[20]. This development opened a new era of the political scenario in India. The Britishers ruled India about three hundred years and changed the judicial system of India.

The Britishers started to implement the British laws to resolve their disputes. Initially, the colonies of Britishers were governed by the prevalent local rules but with the span of time, the British law became the law of land. Besides many other laws, the ADR system was also implemented for speedy disposal of disputes among the litigants. The traces of legal codification of Arbitration were explored by our judiciary. It was found that the first attempt ever made was in Bengal Regulations of 1772. The provision was formulated to submit the account disputes to the arbitration. Thereafter, in 1781, in Sir Elijah Impey's Regulation, the provision regarding the referral by Judges was included. The referral prevailed over the parties' choice of submission to the arbitration. The regulation of the administration of justice was also passed in 1787 with a provision of referring the case to the arbitration with the mutual consent of the parties. Then, to encourage the people for arbitration the regulation XVI of 1793 was passed which regulated some kind of disputes to be referred to the arbitrators. To make the Regulation of 1793 more effective, the Regulation VI of 1813 was passed in which the land disputes are to be referred to the arbitrators. The regulation VII in 1822 authorised the revenue authorities to refer the cases regarding rent and revenue to the arbitrators. In Bengal Regulation IX of 1883, the provision regarding the reference was again codified[21]. Apart from the above regulations, the regulation of Madras and the Regulation of Bombay were codified[22].

Till 1834, East India Company was paramount all over the country. The company was governing the Indian Territory as per their rules. In 1834, Warren Hastings, the first governor general of India after the Charter Act, 1833, formed the

legislative council of India. This council was entrusted he task to regulate the procedures of civil courts. The Code of Civil Procedure, Act VIII of 1859 was passed to regulate the civil suits. Section 312 to 327 of the Act dealt with the arbitration clause. Thereafter, the Act was repealed in 1877 but without any change in the arbitration procedure. The code of Civil Procedure again revised in 1882 as the Act XIV of 1882 which again redo the arbitration clauses about the references of arbitration with or without the intervention of the code. However, the code did not provide any provision on the subject of future disputes and their agreements[23].

The first ever code specifically dealing with the arbitration clauses was passed in the name of India Arbitration Act, 1899. The Act was initially applicable to the presidency town only. With the span of time, it was made applicable to the other towns of the British colonies. The Act was passed on the basis of English law principles[24].

The flaws in the civil procedure code were attempted to be removed. To make the civil procedure code more effective and to give more powers to the small cause courts, a new code of 1908[25] was passed by the legislative counsel. The second schedule of the Act of 1908 was based on the Indian Arbitration Act, 1899[26].

In 1925, Civil Justice committee was set up to review the civil procedure and to give an advice on the issue of the arbitration clause. The committee scrutinized the provisions of the Act of XIV of 1882 and Indian Arbitration Act, 1899 and gave a detailed report to improve the justice system in civil matters. A lot of opinions were given by its members in the matter of arbitration. The courts were not having the extraordinary powers to enforce the arbitration clauses. Arbitration agreement could be made out between the parties in some matters but not specifically governed by any legal provisions[27].

The arbitrators were having two types of references i.e. Conventional and Statutory. In conventional arbitration, the reference was given to the tribunal chose by the parties itself. Consensual arbitration was not having the boundaries of the contradiction of the law but in the statutory arbitration, the Act did not apply where the agreement was inconsistent with any of the prevailing statutes. Some statutes other than the Arbitration Act were also empowered to give the parties a freedom to choose not to compulsorily refer any matter to the arbitration tribunal under the Arbitration Act and to deal separately under that particular statute. In these circumstances, the matters which could be dealt at the same time were getting two different awards from two different tribunals[28].

Meanwhile, the institution of arbitration was at a considerable development at the international level. The demand of a permanent court of arbitration at international level based on the theory of Jereme Bentham was rising. In 1899, The Hague peace conference was convened to resolve out the decision to set up a 'Permanent Court of Arbitration'. The decision of the court was made binding on the member countries who ratified the convention. The tribunal set up under the convention was not having compelling power over the member nations to dictate them to refer their disputes to the arbitration[29].

The Geneva protocol[30] and the Geneva Convention[31] were held under the auspices of the League of Nations. It provided the wings to the international arbitration. It was adopted that if the council fails to settle the disputes between the member countries then it may persuade the parties for arbitration. The council may refer the dispute to arbitration on the request of at least one of the parties. If the parties fail to decide on the name of the arbitrator within the prescribed time, the council was empowered to appoint an arbitrator for them[32].

With the changing times, the trade was increasing in the British occupied territories. The rule of the Queen of

England was spread all over the world. The mutinies were also occurring in occupied territories. To reduce the conflict within traders in the occupied territories, a new comprehensive Act of Arbitration was needed. Judiciary was also demanding and observing the need for a new comprehensive Arbitration Act and was passing the caustic comments[33]. Resultantly, Act of 1940[34] came into existence. The Act of 1940 repealed the old Act of 1899. It also made material changes in the Code of Civil Procedure, 1908. Section 89 and 104 (1) of the code were also repealed. It also repealed the clauses (a) to (f) of the second schedule of the code of 1908[35].

'Scott Avery Clause' was included in the Act of 1940 which endows that no action should be initiated until an award has come. The practice of such type of provisions was the part of commercial arbitration. It further suggests that the arbitration award should cover all the related disputes which may arise in a similar context. The arbitral award should not be against the law of the land and the public policy as if it is made so then it would become impractical to enforce it and render it bad in the eyes of law[36].

Post Independence Period

Convention on the Recognition and Enforcement of Foreign Arbitral Awards popularly known as The New York Convention, 1958 was adopted by United Nations which operates without devaluing the other agreements regarding bilateral or multilateral agreements on the same subjects of foreign arbitral awards. Initially, twenty-seven countries signed and eight countries ratified the convention. India ratified the treaty on 13th July 1960. It was made obligatory to the member countries to give effect to the international arbitration awards in their states when it is not considered as domestic awards[37].

To promote the progressive coordination and confederacy of international trade law, the United Nations General Assembly in 1966 established United Nations Commission on International Trade Law (hereinafter called 'UNCITRAL') having the seats in New York and Vienna. The need for a new set of global rules was felt by the nations to harmonies the global, national and regional regulations. The members of the commission are elected for the term of six years and half of the members expire at every three years. UNCITRAL encourages cooperation among members. It is promoting uniform laws, uniform interpretation and codification after adopting the new international conventions. It is s also playing an important role by maintaining associations with the other organs of the United Nations. Legislative guides were issued by the UNICTRAL became guiding factors for the member nations in resolving the international issues on insolvency rights and the intellectual property rights[38].

To accord with the changing scenario at the world level and is the signatory of the important conventions mentioned above, the government of India launched a new and reformed legislation. The Arbitration and Conciliation Act, 1996 (here-in after called 'the Act of 1996') was passed to make the arbitration an ideal method of settlement in commercial disputes. The basic expressions like Domestic, International, Foreign, Institutional, Adhoc, Statutory Arbitration were used in the Act of 1996[39]:

To make the commercial arbitration better equipped with the latest laws, an ordinance was issued in 2015. The ordinance made an important distinction between domestic and international arbitration in its implication. The "Court" was

defined in the said ordinance. However, the jurisdiction regarding the domestic arbitration is left with the district courts whereas the High courts were entrusted the extraordinary power to directly hear the matters of international arbitration for interpretation. Part-I of the Act of 1996 and the provisions regarding interim measures and of taking the evidence on record are also made applicable to the international arbitration. However, the parties are free to agree to the contrary in their arbitration agreements. It used the words "Supreme Court" and "High Court" instead of Chief Justice of Supreme Court or Chief Justice of High Court. This classification impacted the time limit to appoint the arbitrators within Sixty Days by Supreme Court or High Court or any person designated by them from the serving of notice to the opposite party. It also put a cap over the fee of the arbitrator as per the prescribed rates in the fourth schedule. A fifth schedule is also added to ensure the impartiality and independence of the arbitrator more onerous. The interim orders passed by the arbitral tribunal have been made enforceable as of the orders of the civil courts. The parties are given the relief to file counterclaim and set off their claim in the arbitral proceedings[40].

The new law enumerates that the day to day proceedings shall be conducted by the tribunal for hearing the evidence. The adjournments shall not be granted without any sufficient cause and the heavy costs shall be imposed for it. To fulfill the aspirations of the Act of 1996, the new provisions provide the time-bound arbitrations. The arbitration award is mandatory to be passed within twelve months from the date of its reference. The time can be extended only by six months with the consent of the parties. The application of the extension of the time period is to be disposed of by the appropriate courts within sixty days. The fee of the arbitrator is to be reduced by five percent during the period of extension. Any further period may be extended by the courts only on the sufficient cause and on any other terms. The provision to opt for fast-track procedure has also been provided in the ordinance[41].

The award shall no more be stayed automatically by virtue of filing the application under section 34 to set aside the grounds provided in the Act. There should be a specific order of the court in this regard. The clarifications have been added to section 48 and 57 as to when the international law shall be deemed against the public policy of India. The new law also made the order of reference to arbitrator an appealable[42].

To make India a robust center for institutional arbitration for both domestic and international arbitration, the central government constituted a high-level committee under the chairmanship of Justice B.N. Srikrishna. It examined the effectiveness of the existing arbitration mechanism in India. It gave its report on 30^{th} July, 2017. The report evolved an ecosystem for commercial dispute resolution and suggested reforms in The Arbitration and Conciliation Act, 1996 to make it more effective and efficient[43].

On July 18, 2018, The Arbitration and Conciliation (Amendment) Bill, 2018 was presented in the Lok Sabha on the basis of the report of the above mentioned high-level committee headed by Justice B.N. Srikrishna. An ACI i.e. Arbitration Council of India is proposed to establish which will work for the promotion of Arbitration, Conciliation, Mediation, and other alternative dispute mechanisms. ACI will have a Chairman of the rank of a Supreme Court Judge and other government appointees. The time limit for twelve months is proposed to be removed for international commercial arbitration but the time limit is proposed for the written submissions to the tribunals by the parties. The proceedings are also proposed to be confidential in nature except for the enforcement of the arbitral award[44].

Development of ADR in other Countries

The concept of ADR is not the output of only a single nation. The ADR system developed simultaneously in all countries due to the need of a unified system of dispute resolution in trade at global echelon. The attributions at vast can be paid to British colonies as the main concern was theirs at the vast level but in globalization, there was always a need of a unified set up to maintain harmony and encourage international and commercial trade. The developments, customs, modes, and practices occurred in different countries impacted the world policies at large and a new modern ADR system evolved at the international forum like United Nation. Here are some examples of important developments in the field of ADR in other countries:

England

The common law was always prevalent in the legal history of England. In sixteenth and seventeenth century, the parties could revoke the authority of an arbitrator at any time before the award. The main subject matter of the arbitration agreements was torts. With the expansion of the trades between the British colonies, the disputes of commercial trades increased and the matters were frequently happening to be referred to the arbitration tribunals. The Magna Carta of the codifies legislation to encourage the arbitration was the statute of 1698 which was followed by the statute of 1833 and then the Common Law Procedure Act, 1854 and the English Arbitration Act, 1889. The subject matter was divided into two classifications i.e.

- The matters referred by the mutual consent of the parties. The written consent was sine quo non and the consent was made irrevocable. The arbitrator was given the power to administer the oath.
- References made under the judicial orders.

To ratify and to enforce the protocol signed at the League of Nations, The Arbitration Clauses (Protocol) Act, 1924 was passed. Then in 1925, The Supreme Court of Judicature (Consolidation) Act repealed certain provisions of Arbitration Act, 1889. Thereafter certain amendments were inserted by passing The Arbitration (Foreign Awards) Act, 1930 and a supplement Arbitration Act was passed in 1934[45].

Finally, the Arbitration Act, 1950 was passed as a consolidating Act. The law of Arbitration is now governed in England under this Act only. The statutory provisions were kept to regulate the written agreements and the arbitration procedure. It has become the main source of Arbitration laws and in Commonwealth countries and the U.S.A[46].

United States

The traces of arbitration in U.S.A may be positioned in New York Chamber of Commerce which had been using the arbitration since seventeenth century up to the starting of the twentieth century. In 1817, the New York Stock Exchange also provided the arbitration to its members. The minutes from 1779 to 1792 of the committee of the New York State Chamber of Commerce also had the records of arbitration proceedings. The detailed provisions regarding rules, regulations, procedures, tribunals of arbitration were provided in the Yearbook on Commercial Arbitration[47].

The constitutional validity of arbitration was decided[48]. It was also held that the compulsory arbitration would be unconstitutional if it would not have the provision to appeal to the ordinary courts[49]. Despite the interferences of the courts the arbitration laws continued growing in the U.S.A. the Federal Arbitration Act in 1935 was passed to deal with the arbitration laws[50].

Scotland

The law of arbitration, The Arbitration (Scotland) Act of 1894 prevalent in Scotland was slightly different from U.K.'s Arbitration Act of 1889. Scotland's law of arbitration did not codify the previous practices of arbitration. The procedure of signing the deeds were given which defined the terms like references, arbitrator, umpire whose decision was final in case of difference of opinion. The courts of Scotland cannot evaluate the award on the basis of a miscarriage of justice[51].

Ireland

The Common Law Procedure (Ireland) Act, 1856 passed much before the Act of 1899 in England. The Irish law of arbitration is dependent on its own Act of 1856 and the Act of 1899 of England was not applicable in Scotland[52].

France

Voluntary arbitration has been always part of French society. Up to 1935, the arbitration procedure was governed by the civil laws under the code of civil procedure. The tribunals of commerce were established to deal with the arbitration matters as per English laws. The arbitration law of 1935 was passed to introduce the enforcement of the legal system regarding arbitration in France. The distinction was made between the formal arbitration of existing disputes and the reference of future disputes as per the contract between the parties. The courts do not consider the disputes for arbitration which are not the formal arbitrations[53].

CONCLUSIONS

A society is never expected to be without any existence of the law. Natural law has always been there to govern human beings. Besides the natural laws, moral notions took the shape of laws in dealings of human beings. Barter system came to a source of survival which took a modern shape of trade with the development of civilized societies. The disputes were also at the development stage. Persons in different forms were appointed to resolve the disputes by the societies at different ages. In the absence of any developed and codified law, only the natural law to resolve the issues would have been present and the natural dispute resolution system having the nature to give the justice to the sufferer always prevailed. The speedy justice delivery system is a prerequisite for every judicial system. The peaceful attempt is always made a human nature to decide the conflicts between two parties and the arbitration is the stem of this idea of mediation.

The determination of the dispute by the judgment of one or more arbitrators is known as arbitration. Many countries including India claims to be the first country in the world having the arbitral system to resolve disputes. Early references may also be found back in 4,000 B.C. It is difficult to say which country is the mother of the arbitration system but it is confirmed that it has existed in all civilizations. It was in practice in one or the other form or name like Mediation, Conciliation, Panchayati or Salus. Now, it has developed in a systematic manner and is a part of international and domestic ADR system. Depending on the procedure, every form is recognized in a specific manner depending on its procedural.

In *germio legis*, arbitration is now a very systematic and a developed field of law. Proper rules and regulations have been codified all over the world including India. In India, arbitration is now governed under the Act of 1996[54]. The international commercial arbitration is resolute by the *lex fori* of the court. Besides the popularity of arbitration particularly and the enforcement through the statute by the legislation, it emerged with some drawbacks which are as under:

- The object of the legislation was the speedy disposal without entangling in the technicalities of the dispute resolving system but due to the technicalities involved in the Act of 1996, there is an eternal prolixity at each stage[55].
- The grounds provided in section 34 of the Act of 1996 are insufficient to provide the relief. The arbitrators are having the toothless teeth to enforce the interim reliefs. The time period for pronouncing the award is also not provided in the Act[56].
- The definition of "court" in the Act is also insufficient to deal with the domestic and international arbitrations simultaneously. The court of the additional district judge is not empowered to deal with the application filed under section 8 of the Act[57].
- The provisions of the Act of 1996 are not so elastic that the court may refer the dispute for arbitration by itself. All the process and proceedings are dependent on the arbitration agreement between the parties[58].

However, on the recommendations of the law commission in its report on arbitration and conciliation Act which suggested the fast track arbitration and the single member fast track arbitral tribunal, the amendments have been proposed to establish Arbitration Council of India under the Act but it is still under process and the outcome of the amendments will be visible in future but the need to resolve the disputes of the public at large at urban and rural levels remained the same. The technicalities of the arbitration had always staggered the pace of growth of the institution. The need was ever felt to adopt a system which is less technical and formal and which may provide the speedy justice to the litigants. Inter alia, the roadmap of the institution of mediation was prepared simultaneously well within the time as it is rightly said by Justice Joseph Gryban:

"An ounce of mediation is worth a pound of arbitration and a ton of litigation."

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33. *[55]Guru Nanak Foundations v. Rattan Singh (1981) 4 SCC 634.*
34. *[56] Food Corporation of India v. Joginderpal, AIR 1961 SC 2075*
35. *[57]Western Ship breaking Corporation v. Clase Haren Ltd, U.K (1997) 3 947 LR 1985*
36. *[58] P.Anand Gajpati Raju v. P.V.G. Raju, (2000) 4 SCC 539.*