

EMPOWERING WOMEN VICTIM OF CRIME THROUGH PEACEFUL RESOLUTION: THE ROLE OF ADR MECHANISMS IN GENDER JUSTICE

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ABSTRACT

The story of women victims seeking justice is a poignant and arduous one, marred by societal biases, legal complexities, and systematic hurdles. In the quest to bridge this glaring gap and pave the way for a more equitable society, Alternative Dispute Resolution (ADR) emerges as a powerful instrument of change. Acknowledging the significance of compensating women victims, this research explores the transformative potential of ADR mechanisms in facilitating their journey towards healing and restoration.

As nations grapple with the challenges of securing justice for women victim, a global ranking of countries' ADR practices shed light on their commitment towards this cause. By analysing pertinent data, we can unveil the best and worst performers, gaining valuable insights from success stories while unearthing the roots of shortcomings. From cultural barriers to institutional constraints, this research highlights the issues impeding the seamless implementation of ADR, ultimately impacting the lives of countless women seeking compensation.

Nestled within the vivid tapestry of India lies a complex landscape where the pursuit of justice for women victims unfolds. By assessing the ranks and data pertaining to ADR implementation in the Indian context, this research evaluates the effectiveness of existing laws, government schemes, and the indispensable role played by non-governmental organizations (NGOs) in supporting women victims. Yet, the journey towards compensation remains fraught with challenges, as deep-rooted societal norms and legislative intricacies cast their shadows.

In the realm of transforming challenges into opportunities, this research presents insightful recommendations for bolstering the compensation provided to women victims through ADR mechanisms. Drawing inspiration from impactful reports and grassroots success stories, these suggestions aim to pave a road that empowers women, offering them the justice and restitution they rightfully deserve.

As we traverse the path of progress and chart the course for a just society, the role of ADR in compensating women victims of crime cannot be overstated. While targets have been achieved, our collective action must be accelerated to eradicate the barriers obstructing justice. With the proposed solutions in place, we can embark on a transformative journey, empowering women victims and building a world where compensation and healing are not distant dreams, but tangible realities. Together, we shall march towards a brighter, more inclusive future.

Keywords: Alternative Dispute Resolution, Compensation, Women victims, Crime, India

I. INTRODUCTION

The goal of the research is to analyse the role of ADR in compensating women victims of crime. It aims to examine the effectiveness and impact of ADR mechanisms in providing compensation to women who have experienced various forms of victimization, such as domestic violence, sexual assault, and harassment.

The primary objective is to assess how ADR practices can contribute to addressing the specific compensation needs of women victims. This involves evaluating the extent to which ADR mechanisms offer a fair, accessible, and empowering process for women to seek and obtain compensation for the harm they have suffered.

By analysing the role of ADR, this research aims to explore its potential advantages in compensating the victims. It seeks to understand how ADR can provide a more victim-centred approach, offering opportunities for women to actively participate in the resolution of their cases, express their concerns, and voice their needs for compensation. Additionally, the

research aims to examine the potential benefit of ADR in terms of faster, less adversarial, and more cost-effective resolutions, which can contribute to the overall well-being and recovery of victims.

Ultimately, the goal is to provide insights into the effectiveness of ADR as an alternative or complementary avenue for compensating women victims of crime. The research aims to generate knowledge and recommendations that can inform policymakers, legal practitioners, and relevant stakeholders in developing and implementing strategies to enhance the role of ADR in meeting the compensation needs of women victims.

When women experience victimization, they undergo immense physical, emotional, and psychological trauma, which often leaves long-lasting scars on their lives. By recognizing the importance of justice and restitution for victims, society can take significant strides towards creating a safer, more equitable, and supportive environment for women. Here are some key reasons why justice and restitution are crucial.

- 1. Empowerment and Healing:** Justice and restitution empower women by acknowledging their suffering, validating their experiences, and providing a sense of closure. Compensation can help them recover from financial losses and regain control over their lives, fostering the healing process.
- 2. Deterrence:** Effective compensation mechanisms serve as a deterrent against potential perpetrators, as they demonstrate that society takes offences against women seriously and will hold offenders accountable for their actions.
- 3. Reducing Vulnerability:** Compensation can alleviate the economic and social vulnerabilities that women victims often face after victimization. It helps prevent further victimization and reduces the risk of women falling into cycles of poverty and abuse.
- 4. Restoring Trust in the Legal System:** For many women, seeking justice through the traditional legal system can be daunting and retraumatizing. Effective compensation mechanisms, such as ADR, provide an alternative path to resolution, enhancing trust in the justice system.
- 5. Gender Equality and Human Rights:** Justice and restitution are integral to upholding gender equality and protecting women's human rights. Ensuring fair compensation for women reinforces the principle of equal treatment before the law.

By setting targets and indicators, this research aims to assess the effectiveness of ADR practices in meeting the compensation needs of women. It seeks to identify areas of improvement, highlight successful approaches, and provide insights into enhancing the implementation of ADR mechanisms for the benefit of women victims of crime.

II. GLOBAL STATUS

It is reported that out of 192 countries, which are members of UN, 133 countries have successfully implemented ADR in one form or the other. Some of the international treaties and conventions so established are as follows.

- 1. The Geneva Protocol on Arbitration Clause of 1923:** The first international convention on commercial Arbitration was the Geneva Protocol of 1923. Its main purpose was to secure recognition of the validity of the international arbitration agreements and to ensure that, if the parties commenced litigation the Court would refer the parties to arbitration. In this protocol, each contracting state reserves the right to limit the obligation mentioned above the contracts which are considered under its national law.
- 2. The Geneva Convention on Execution of Foreign Arbitral Awards of 1927:** In the territories of any high contracting parties to which this convention applies, an arbitral award made in pursuance of an agreement whether relating to existing or future

differences covered by the protocol on arbitration clause mentioned in previous treaty, be recognized as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the high contracting parties to which the present convention applies and between persons who are subject to the jurisdiction of one of the high contracting parties.

3. **Washington Conventions on Settlement of Investment Disputes Between States and National of Other State of 1965:** International Centre for Settlement of Investment Disputes is an international arbitrary institution which facilitates arbitration and conciliation of legal disputes between international investors and between contracting states and national of other contracting states. It does not conduct the proceedings itself, but offers institutional and procedural support to conciliation commissions, tribunal and other committees which conduct such matters.
4. **UNCITRAL Arbitration Rules as Revised in 2010:** The UNCITRAL Arbitration rules, as revised, includes provisions dealing with, amongst others, multiple parties to arbitration and joinder, liability and a procedure to object to experts appointed by the arbitral tribunal. A number of innovative features contained in the rules aims to enhance procedural efficiency, including revised procedures for the replacement of an arbitrator, the requirement for reasonableness of cost, and a review mechanism regarding the cost of arbitration.

Identifying the successful practices contributes to the development of strategies that address obstacles and ensure effective compensation and support for women victims of crime.

Successful Practices Observed Globally:

1. **Inclusion of Gender-Specific Guidelines:** Some countries have developed gender-specific guidelines for ADR processes, ensuring that the unique needs and perspectives of women victims are considered. These guidelines may include provisions for trauma-informed approaches, culturally sensitive practices, and the involvement of support services during the resolution process.
2. **Specialized Training for ADR Practitioners:** Successful ADR programs have implemented specialized training programs for practitioners to enhance their understanding of gender-based violence, the dynamics of power and control, and the potential barriers faced by women.
3. **Multi-Disciplinary Collaboration:** Collaborative efforts involving various stakeholders, including legal professionals, social workers, and psychologists, have proven effective in supporting women during ADR practices.

III. ISSUES FACED

Implementing ADR mechanisms for compensating women victims of crime can be fraught with various challenges and issues. Addressing these obstacles is crucial to ensure that women have access to fair and effective compensation processes. The following are some of the key challenges and issues encountered.

1. **Limited Awareness and Access:** A significant challenge is the lack of awareness among women about the availability and benefits of ADR mechanisms. Many women may not be aware of their rights to compensation through ADR or the existence of such alternative avenues. This limited awareness can prevent them from seeking redress through these processes, leading to underutilization of ADR for compensating women victims.

2. **Cultural Barriers and Stigmas:** Deep-rooted cultural norms and stigmas surrounding gender-based violence can discourage women from engaging in ADR processes. Societal attitudes that blame or shame victims may inhibit their willingness to come forward and participate in resolution procedures. Women may fear social repercussions, further deterring them from accessing ADR mechanisms.
3. **Power Imbalance and Intimidation:** ADR processes may face challenges related to power imbalances between the parties involved, especially when the perpetrator holds a position of authority or influence. Women may feel intimidated, hindering their ability to actively engage and assert their rights during the resolution process. Ensuring a safe and empowering environment for women to participate in ADR is essential to address this challenge.
4. **Institutional Constraints:** The efficacy of ADR mechanisms for compensating women victims can be hindered by institutional constraints. Some institutions may lack the capacity or resources to effectively implement ADR programs, resulting in limited accessibility and quality of services. Bureaucratic and administrative hurdles may also slow down the compensation process, frustrating women victims seeking timely redress.
5. **Inadequate Legal Frameworks:** The absence of comprehensive legislation or clear guidelines specifically addressing the compensation rights of women victims through ADR can hamper the implementation of these mechanisms. Uncertainty in legal frameworks and procedures may lead to inconsistent compensation outcomes or even discourage women from pursuing ADR options.

Addressing these challenges require comprehensive efforts, including:

1. Strengthening legal frameworks to simplify ADR processes and make them more accessible to women victims.
2. Raising awareness about ADR options and rights to compensation through targeted outreach programs and community engagement.
3. Conducting gender sensitization training for ADR practitioners to ensure a safe and supportive environment for women victims.
4. Improving the availability of legal aid services and support systems for women victims, particularly in remote and marginalized areas.
5. Collaborating with NGOs and community-based organizations to provide holistic support and address the social stigmas surrounding gender-based violence.

IV. STATUS IN INDIA

In the context of India, the implementation of ADR mechanisms for compensating women victims has gained recognition, although challenges remain. Here are some key points regarding the ranks and data related to ADR implementation for compensating women victims in India.

1. **Ranks and Data:** While specific ranks can vary, India's progress in implementing ADR for compensating women can be assessed through various indicators and data sources, such as:
 - (a) **Number of ADR Cases-** A cumulative effect of all the preparatory and mobilization measures resulted in extraordinary disposal figures during the year 2021. Across the country, a total number of 1,27,87,329 cases were disposed of in four national Lok Adalats, which included a huge number of pending cases i.e., 55,81,117 and a record number of pre-litigation cases i.e., 72,06,212.
 - (b) **Success Rate-** 90% of the cases referred to HMRC for ADR so far has been resolved within a short while and 90% of cases were resolved with a positive outcome.

2. **Constitutional Framework and Laws:** The Indian constitution provides various provisions that protect the rights of women victims and ensuring their access to justice and compensation. Key constitutional provisions include:
 - (a) **Article 14-** The right to equality before the law and equal protection of laws ensures that women victims are treated fairly and without discrimination during legal proceedings and compensation processes.
 - (b) **Article 15-** Prohibition of discrimination on grounds of sex guarantees that women victims are not subjected to differential treatment solely based on their gender.
 - (c) **Article 21-** Protection of life and personal liberty extends to women victims, ensuring their right to live with dignity and access to justice and compensation.
 - (d) **Article 39A-** This directive principle of state policy emphasizes equal justice and free legal aid, which is crucial for women victims who may face economic barriers in seeking justice.
 - (e) **Protection of Women from Domestic Violence Act, 2005-** This law addresses various forms of domestic violence and provides protection orders, compensation, and assistance to women victims facing abuse within the domestic sphere.
 - (f) **Criminal Law (Amendment) Act, 2003-** This amendment strengthened laws related to crimes against women, particularly rape, and introduced provisions for compensation to be awarded to the victims to aid their recovery and rehabilitation.
 - (g) **Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2003-** This law ensures a safe working environment for women and empowers them to seek redressal for workplace harassment, including compensation where applicable.
3. **Government Schemes:** The Indian government has implemented various schemes and initiatives to support women victims and provide compensation. Some notable schemes include:
 - (a) **Victim Compensation Scheme-** Under this scheme, women victims of crimes such as rape, acid attacks, human trafficking, and domestic violence are eligible for financial assistance and to aid their recovery and support their livelihood.
 - (b) **Nirbhaya Fund-** Established in response to the 2012 Nirbhaya gang-rape case, this fund supports initiatives that enhance the safety and security of women. It provides financial assistance for victim compensation, rehabilitation, and setting up support systems for women victims.
4. **Role of NGOs:** Non-governmental organizations (NGOs) play a vital role in supporting women victims in India. They offer a range of services including:
 - (a) **Legal Aid:** NGOs play a crucial role in providing free legal aid and support to women victims. They help women understand their rights, assist them in filing cases, and guide them through the complex legal procedures.
 - (b) **Counselling and Rehabilitation:** NGOs offer counselling services to women victims, providing emotional support and helping them cope with trauma. Additionally, they assist in rehabilitation process by offering skill-building programs, vocational training, and access to livelihood opportunities.
 - (c) **Awareness and Advocacy:** NGOs raise awareness about the rights of women victims and work towards sensitizing communities and institutions. They engage in advocacy efforts to promote policy changes, improve the legal framework, and enhance their overall support available to women.
 - (d) **Collaboration with Stakeholders:** NGOs collaborate with government bodies, legal aid agencies, ADR institutions, and other stakeholders to ensure that women victims have access to justice, compensation, and holistic support.

The constitutional framework, existing laws, government schemes, and the active involvement of NGOs collectively contribute to providing essential support and compensation to women victims in India. However, ongoing efforts are needed to strengthen these mechanisms, address implementation gaps, and ensure effective access to justice and support for all women victims of crime.

V. SUGGESTIONS

Based on a comprehensive analysis, the following recommendations are proposed to enhance compensation and support for women victims through ADR mechanisms:

1. Awareness and Outreach:

- (a) Develop targeted awareness campaigns to educate women victims about their rights to compensation and the availability of ADR mechanisms.
- (b) Collaborate with NGOs, community organizations, and local authorities to conduct workshops, seminars, and information sessions to reach marginalized and rural communities.
- (c) Utilize various mechanisms, including social media, television, radio, and print, to disseminate information about ADR options and support services.

2. Gender Sensitivity and Training:

- (a) Provide specialized training programs for ADR practitioners to enhance their understanding of gender-based violence, trauma-informed approaches, and the unique challenges faced by women.
- (b) Include gender sensitivity modules in the training curriculum, emphasizing the importance of creating safe and supportive environments for women during the ADR process.
- (c) Encourage continuous professional development and regular updates on evolving gender-related issues and legal developments.

3. Legal Aid and Support Services:

- (a) Improve access to legal aid services by establishing legal aid clinic specifically dedicated to women victims in ADR centres.
- (b) Strengthen collaboration between ADR institutions, legal aid organizations, and NGOs to provide comprehensive support, including legal representation, counselling, and rehabilitation services.
- (c) Establish partnerships with healthcare providers, social workers, and other support professionals to ensure holistic support for women victims throughout the compensation process.

4. Simplification of Procedures:

- (a) Streamline and simplify the procedures involved in ADR mechanisms, ensuring that they are accessible, understandable, and user-friendly for women victims.
- (b) Develop standardized guidelines and protocols for ADR processes in cases involving women victims, addressing their specific needs and ensuring their rights are protected.
- (c) Implement technology-enabled solutions, such as online dispute resolution platforms, to improve accessibility and reduce geographical barriers.

5. Collaboration and Coordination:

- (a) Foster collaboration between ADR institutions, government agencies, NGOs, and community organizations to create a coordinated approach in providing compensation and support to women victims.
- (b) Establish referral networks and partnerships to ensure seamless transition and access to appropriate services, including legal aid, counselling, healthcare, and rehabilitation.

- (c) Regularly convene stakeholder meetings, workshops, and consultations to share best practices, discuss challenges and develop strategies for continuous improvement.

VI. CONCLUSION

The research highlights significant progress in compensating women victims through ADR mechanisms, but also identify areas where action need to be accelerated. Achieved targets in compensating women victims through ADR demonstrate the effectiveness of these mechanisms in providing timely and just compensation. Successes include the inclusion of gender-specific guidelines, specialized training for ADR practitioners, and collaborative efforts involving multiple stakeholders.

However, certain areas require accelerated action. Challenges such as limited awareness, social stigma, and accessibility barriers hinder the effective utilization of ADR systems for women victims. Legal complexities and power imbalances further impede the process. These obstacles underscore the need for targeted efforts to raise awareness, address social stigmas, and improve accessibility to ADR mechanisms.

The research emphasizes the significance of ADR in addressing the compensation needs of women victims and fostering a more inclusive and equitable society. ADR offers a platform for women victims to seek justice, obtain fair compensation, and regain a sense of control and dignity, it empowers them to navigate the legal system and obtain redress for the harm they have suffered.

Implementing the recommended solutions is crucial to ensuring timely and just compensation for women victims of crime. Awareness campaigns, gender sensitivity training, and strengthened collaboration among stakeholders are essential. Additionally, legal aid and support services should be readily accessible. By implementing these recommendations, stakeholders can enhance the effectiveness of ADR mechanisms, promote gender justice, and contribute to a more equitable society.

Overall, the findings emphasize the transformative potential of ADR in addressing the compensation needs of women victims. Through its implementation and the adoption of the suggested recommendations, a comprehensive and inclusive approach can be fostered, ensuring that women victims receive the compensation and support they deserve while advancing the broader goals of justice and equality.

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