Alternative Dispute Resolution (ADR) Mechanisms

Why in News?

- The National Legal Services Day is celebrated on 9th November to spread awareness for ensuring reasonable fair and justice procedure for all citizens.
- One of the objectives of Legal Services Authorities is to promote settlements of disputes through Alternative Dispute Resolution (ADR) Mechanisms.
- ADR is a mechanism of dispute resolution that is non adversarial, i.e. working together co-operatively to reach the best resolution for everyone.
- ADR can be instrumental in reducing the burden of litigation on courts, while delivering a well-rounded and satisfying experience for the parties involved.
- It provides the opportunity to "expand the pie" through creative, collaborative bargaining, and fulfill the interests driving their demands.
- ADR is generally classified into the following types:
  - **Arbitration:**
    - The dispute is submitted to an arbitral tribunal which makes a decision (an "award") on the dispute that is mostly binding on the parties.
    - It is less formal than a trial, and the rules of evidence are often relaxed.
    - Generally, there is no right to appeal an arbitrator's decision.
    - Except for some interim measures, there is very little scope for judicial intervention in the arbitration process.
  - **Conciliation:**
    - A non-binding procedure in which an impartial third party, the conciliator, assists the parties to a dispute in reaching a mutually satisfactory agreed settlement of the dispute.
    - Conciliation is a less formal form of arbitration.
    - The parties are free to accept or reject the recommendations of the conciliator.
    - However, if both parties accept the settlement document drawn by the conciliator, it shall be final and binding on both.
  - **Mediation:**
    - In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute.
    - The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves.
    - Mediation leaves control of the outcome with the parties.
  - **Negotiation:**
    - A non-binding procedure in which discussions between the parties are initiated without the intervention of any third party with the object of arriving at a negotiated settlement to the dispute.
    - It is the most common method of alternative dispute resolution.
    - Negotiation occurs in business, non-profit organizations, government branches, legal proceedings, among nations and in personal situations such as marriage, divorce, parenting, and everyday life.

**Advantages of ADRs**

- The resolution of disputes takes place usually in private – helping maintain confidentiality.
- It is more viable, economic, and efficient.
- Procedural flexibility saves valuable time and money and absence of stress of a conventional trial.
- This often results in creative solutions, sustainable outcomes, greater satisfaction, and improved relationships.
The possibility of ensuring that specialized expertise is available on the tribunal in the person of the arbitrator, mediator, conciliator or neutral adviser. Further, it offers greater direct control over the outcome. Personal relationships may also suffer less.

ADR in India

- The Legal Services Authorities Act was passed in 1987 to encourage out-of-court settlements, and the new Arbitration and Conciliation Act was enacted in 1996.
- Procedure for plea-bargaining was included in the Code of Criminal Procedure in 2005. (Plea-bargaining is best described as a "pre-trial negotiation between the accused and the prosecution during which the accused agrees to plead guilty in exchange for certain concessions by the prosecution.")
- Lok Adalat or "people's court" comprises an informal setting which facilitates negotiations in the presence of a judicial officer wherein cases are dispensed without undue emphasis on legal technicalities. The order of the Lok-Adalat is final and binding on the parties, and is not appealable in a court of law.

Way Forward

- ADR has proven successful in clearing the backlog of cases in various levels of the judiciary – Lok Adalats alone have disposed more than 50 lakh cases every year on average in the last three years.
- But there seems to be a lack of awareness about the availability of these mechanisms.
- The National and State Legal Services Authorities should disseminate more information regarding these, so they become the first option explored by potential litigants.

For Mind Map