

I was surprised by the statement of CJI that only 5 % of the cases in India are settled using ADR mechanisms. In a country like India where 30 million cases are awaiting the final judgement, this figure is painful. Where did we miss the bus? Union Law minister and other luminaries of Indian Judiciary talk about the changes required in the system and many steps are on the forefront to make those changes, I presume. Every seventeenth person in India has a case going on in the courts and six per cent of the total population of India is affected by litigation. Some studies show that there is one advocate for 1,200 Indians. This is not surprising with close to 10, 20,000 lawyers who are there on the rolls of 740 law colleges. But this is not reflected in the fact that the population and judges ratio in India is 13.5 judges per 10 lakh people as compared to 135-150 per ten lakh people in advanced countries. At present, in India, the ratio is 13.5 judges per million of population whereas it is about 58 judges in Australia, 75 in Canada, 51 in UK and 107 in United States.

Often I play a critique's role as far as the law reforms in India are concerned. Compared to other sectors, practice of law has not witnessed dramatic changes in India. I used to remark often, in jest with my colleagues who are law graduates, about the difference they see in today's legal practice compared to what Gandhi was practicing in 1809. I believe that it has not changed much. Law is conservative and it is assumed that the judiciary can either follow or lead according to the changes in the system. This has been a never ending question in the realm of law making from the time of natural laws. But in the Indian context, our tradition and civilization reflected in epics show a dominant role for law and its abiding spirit. Law is honoured and the judiciary is the most respected organ of the state even during the doubting times.

India is tipped to be the global destination for ADR like Singapore and Dubai if we are to believe Law Ministry's statements. There is a long way to go. There seems to be a conflict in the minds of practitioners of ADR in India. In a country where 20% of population is below poverty line (there are confusing figures about the exact figure and its method of estimation), mediators and arbitrators can play a significant role in settling the disputes outside courts. The conflict is whether we should go by western concept of mediation proceedings or go by our traditional concept of Panchayats where the disputes are settled. In India, when many are finding it difficult to meet both ends in their daily lives, the confidentiality and trust in ADR system can be evoked only by being in sync with practices in the system. It cannot be another set of courtrooms eventually. Innovation and out of box thinking should embrace conservative law to ensure that ADR systems succeed.

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