Unit - 4

Arbitration Agreements

An arbitration agreement establishes the framework for this process, ensuring both parties understand and consent to resolve disputes this way rather than through litigation.

An arbitration agreement is designed to resolve disputes through a third party rather than traditional court litigation. These agreements specify how conflicts will be handled, who will serve as arbitrators, and what rules will govern the process.

Key Elements of an Arbitration Agreement:

An arbitration agreement should contain several critical components that define how disputes will be handled and resolved. Use them to help you craft an effective and enforceable mutual arbitration agreement:

1. **Agreement to Arbitrate**

The core of any arbitration agreement is the commitment from all parties to resolve specified disputes through arbitration rather than litigation. This section clearly states that the parties surrender their right to bring covered disputes to court, including jury trials, and agree to submit them to arbitration instead.

The language must be clear to ensure mutual consent and prevent enforceability challenges later.

2. **Scope of Disputes Covered**

This section should be carefully drafted to avoid ambiguity about which conflicts require arbitration and which might still be litigated. This element defines which types of disagreements fall under the arbitration process.

3. **Selection of Arbitrator(s)**

The agreement outlines how arbitrators will be chosen, whether by mutual agreement, from a specific organization's roster, or through another method. It may specify the number of arbitrators, required qualifications, subject matter expertise, or standards of neutrality.

4. **Arbitration Rules and Procedures**

This section establishes the procedural framework that will govern the arbitration process. It often references established rules from arbitration organization's.

These rules cover everything from initial filings and arbitrator selection to evidence presentation, hearing procedures, timelines, and award issuance. The agreement might also include modifications to standard rules to fit the parties' specific needs.

5. **Venue and Location**

For international agreements, venue selection is crucial because of varying enforcement standards across countries. The agreement specifies where the arbitration proceedings will take place. This could be a physical or virtual location.

6. **Cost and Fee Allocation**

This element addresses how arbitration expenses will be shared or allocated between parties. Costs typically include arbitrator fees, administrative expenses, hearing facility charges, and attorney fees, if applicable.

7. **Confidentiality Clause**

Many arbitration agreements include provisions maintaining the privacy of proceedings and outcomes. The agreement specifies what information must be kept confidential, who is bound by the confidentiality, and the potential consequences for breaching the contract.

8. **Language and Governing Law**

For clarity and proper interpretation, agreements specify the official language for proceedings and which jurisdiction's laws govern the arbitration agreement and the underlying Dispute. It prevents misunderstanding between the parties.

9. **Enforceability of Arbitration Awards**

This section confirms that arbitration decisions are legally binding and enforceable. It often references applicable laws. This element establishes the authority of the arbitration process and clarifies that parties must comply with the arbitrator's final decision.

Kinds of arbitration agreements

The various kinds of arbitration agreements can be categorized based on several key factors, such as the timing of the agreement, the scope of disputes covered, the form or structure, the type of arbitration (institutional or ad hoc), and the voluntariness of the agreement

🔷 1. **Based on Timing**

a. Pre-dispute Arbitration Agreement

- Signed before any dispute arises.
- Common in contracts (employment, consumer, commercial, etc.).

Example: “Any dispute arising out of this contract shall be submitted to arbitration.”

b. **Post-dispute Arbitration Agreement**

- Signed after a dispute has arisen.
- Parties agree to arbitrate a specific dispute instead of going to court.
- Also known as a submission agreement.

🔻 2. Based on Scope of Disputes

a. Broad Arbitration Agreement

- Covers all disputes arising out of or relating to the contract or relationship.

Example: "Any and all disputes arising under or related to this agreement..."

b. Narrow Arbitration Agreement

- Limits arbitration to specific types of disputes (e.g., only performance-related issues).

◆ 3. Based on Structure or Format

a. **Clause in a Contract (Arbitration Clause)**

- Included as a clause within a larger contract.
- Usually pre-dispute and sets the framework for future disputes.

b. **Separate Arbitration Agreement**

- Standalone document that may be signed before or after a dispute.
- Often more detailed and customized.

🔻 4. Based on Arbitration Type

a. **Institutional Arbitration Agreement**

- Refers disputes to a recognized arbitral institution (e.g., ICC, LCIA, SIAC).
- Uses the rules and administration of the institution.

b. Ad Hoc Arbitration Agreement

- No institution involved.
- Parties manage the arbitration themselves (often using UNCITRAL Rules or custom rules).

◆ 5. Based on Voluntariness

a. **Voluntary Arbitration Agreement**

- Both parties freely agree to arbitrate disputes.
- Often post-dispute or negotiated by equal parties.

b**. Mandatory Arbitration Agreement**

- One party (usually the stronger one) imposes arbitration as a condition of contract.
- Common in employment, consumer, or franchise agreements.
- Sometimes criticized for lack of fairness or consent.

🔻 6. **Based on Legal Context or Jurisdiction**

a. **Domestic Arbitration Agreement**

- Arbitration within a single country.
- Governed by national laws.

b. **International Arbitration Agreement**

- Parties from different countries or cross-border disputes.
- Often governed by international rules (e.g., UNCITRAL, ICC).

VALIDITY

The validity of arbitration agreements depends on several legal and practical factors, including the jurisdiction.An arbitration agreement is valid if it represents the parties' mutual and free consent to resolve disputes through arbitration, even if it's unstamped or not formally signed. The core principle is that an arbitration agreement is a distinct, collateral contract from the main contract, and its validity is assessed separately.

Key Factors for Validity

- **Mutual Consent:**

Both parties must freely and consciously agree to use arbitration to resolve disputes, not litigation. Consent must be informed and voluntary—coercion or deception can invalidate the agreement.

- **Ad Idem:**

Parties must be of the same mind regarding the terms and conditions of the arbitration clause.

- **No Conflict with Public Policy:**

The arbitration agreement must not be contrary to public policy or any specific statute.

- **Well-Defined Clause:**

The agreement should clearly define the method for addressing and resolving disputes.

- **Jurisdictional Authority:**

The jurisdiction where the arbitration is to take place must have the authority to enforce the agreement.

- **Writing Requirement:**

Most legal systems require arbitration agreements to be in writing (e.g., under the New York Convention, FAA in the U.S.).

- **The dispute must be arbitrable under applicable law:**

Some matters (e.g., criminal law, family law, certain consumer/employment rights in some countries) may be non-arbitrable.

- **Clarity and Specificity:**

The agreement should clearly define:

1. Scope of arbitration (what disputes are covered)
2. Rules governing arbitration (e.g., ICC, UNCITRAL, AAA)
3. Place (seat) of arbitration
4. Language of arbitration
5. Number of arbitrators and method of appointment

The Principle of Separability:

1. The doctrine of separability holds that an arbitration clause is a separate agreement from the main contract.
2. This means that even if the main contract is void, unenforceable, or not duly stamped, the arbitration agreement itself can still be valid and enforceable.

Unstamped Agreements

Not Void:

An unstamped arbitration agreement is not considered void from the outset.

Inadmissible in Evidence:

However, it might be inadmissible as evidence in a court proceeding until the required stamp duty is paid.

Tribunal's Role:

The arbitral tribunal has the power and authority to decide on the admissibility and validity of an unstamped document.

Curable Defect:

The failure to stamp an agreement is considered a curable defect, not a fundamental flaw that renders the agreement entirely void.

Reference and interim measures by court

Both reference by court and interim measures play critical roles in ensuring that arbitration proceedings are properly initiated and that the rights of parties are protected before or during arbitration.

Reference :

When a matter that is subject to an arbitration agreement is brought before a judicial authority (court), the court must refer the parties to arbitration, provided the conditions.

Conditions for Reference:

- There exists a valid and enforceable arbitration agreement.
- A party to the agreement applies to the court for reference before submitting its first statement on the substance of the dispute.
- The dispute raised in the suit or proceeding is covered by the arbitration agreement.
- The application for reference is accompanied by the original arbitration agreement or a duly certified copy.

Objective:

- To uphold party autonomy and promote minimal judicial intervention in arbitration.
- To compel parties to resolve disputes through arbitration when agreed upon.

Courts do not examine the merits of the dispute at this stage. After the 2015 amendment, the court must refer the matter to arbitration unless it finds that no valid arbitration agreement exists.

Interim Measures by Court in Arbitration:

Interim Measures in Arbitration are temporary orders or relief granted by an arbitral tribunal (or, in some cases, by a court) to preserve the rights of the parties or the subject matter of the dispute until the final award is rendered.

Courts play a **supporting role** in arbitration, especially when it comes to **interim measures**, which are temporary remedies aimed at preserving the integrity of the arbitral process or preventing irreparable harm before or during arbitration.

These are **temporary reliefs** granted by a **national court** to support arbitration proceedings. Courts may issue such measures **before** the tribunal is constituted or when the tribunal lacks the power to **enforce** its own orders.

Types of Interim Measures Courts Can Grant:

- **Asset Freezing Orders**
  Prevent dissipation of assets that may be used to satisfy the arbitral award.
- **Preservation of Evidence**
  Prevent destruction or tampering with documents or data.
- **Orders to Maintain Status Quo**
  Prevent actions that would alter the subject matter of the dispute**.**
- **Security for Costs / Performance**
  Compel one party to provide a financial guarantee to secure potential costs or claims**.**
- **Anti-Suit Injunctions**
  Prevent a party from initiating or continuing court proceedings in violation of the arbitration agreement.
- **Interim Custody or Injunctions in Specialized Disputes**
  For example, in intellectual property or family law contexts where applicable.

Court and Tribunal: Complementary Roles

- Courts **do not interfere** with the merits of the dispute.
- They **assist** by preserving rights or assets so the arbitration is not rendered ineffective.
- Most modern laws prohibit **judicial overreach** into the arbitral process.

Requirements

The party requesting the interim measure must generally show:

- A **prima facie case** on the merits,
- A **risk of irreparable harm** if relief is not granted,
- **Urgency** of the situation,
- That the measure is **proportionate** and **just**.

Court-ordered interim measures are a **vital procedural tool** to ensure arbitration remains effective and enforceable. Courts act as **guardians of the process**, stepping in only when needed to **prevent injustice or procedural frustration**.

Arbitration tribunal

An **arbitration tribunal** is a panel (or sometimes a single arbitrator) established to resolve disputes between parties outside of traditional court systems. It is a fundamental component of **arbitration**, which is a form of **alternative Dispute resolution (ADR).**

Key features :

Composition: Typically composed of one or more arbitrators.(solo arbitrator or a panel of three.)

Authority: Gets authority from the **arbitration agreement** between the disputing parties.

Finality: Decisions (called **awards**) are usually final and binding, with very limited rights to appeal.

Appointment of arbitrators :

The **appointment** of arbitrators is a crucial step in the arbitration process. It determines **who will resolve the dispute**. The rules for appointment are typically set out in:

- The **arbitration agreement** (often within a contract)
- The rules of the chosen **arbitral institution** (e.g., ICC, LCIA, SIAC)
- Or, in some cases, **national arbitration laws** (e.g., UNCITRAL Model Law)

Types of Tribunals & Appointment Methods

1. **Sole Arbitrator**

- **Mutual Agreement**: Both parties agree on a single arbitrator.
- **If no agreement**: A court or arbitral institution (like the ICC) may appoint.
  High court : domestic arbitration
  Supreme Court : international commercial arbitration

2. **Three-Member Tribunal**

- **Party-Appointed Arbitrators**: Each party appoints one arbitrator.
- **Presiding Arbitrator (Chair)**: The two arbitrators jointly appoint the third, or an institution does if they can't agree.

Role of Arbitral Institutions in Appointments

Arbitral institutions often handle appointments when:

- Parties fail to agree on arbitrators.
- The agreement delegates appointment power to the institution.

- A party refuses to participate (default appointment).

Key Qualities Considered in Appointment

Arbitrators should be:

- **Independent** and **impartial**
- **Qualified** in the subject matter
- Fluent in the **language of arbitration**
- **Available** and able to handle the case promptly
- In case of **nationality:**
  Domestic arbitration : arbitrator can be of any Nationality
  International arbitration : Arbitrator must not belong to the country of the parties.

Challenges to Appointment

An arbitrator may be **challenged** (and removed) if:

- There's a **conflict of interest**
- They lack qualifications agreed upon by the parties
- They fail to act independently or impartially

Jurisdiction of arbitral tribunal :

The **jurisdiction of an arbitral tribunal** refers to its legal authority to hear and decide disputes submitted to arbitration. This authority is primarily derived from the **arbitration agreement** between the parties, and it encompasses both procedural and substantive aspects of a dispute.

Source of Jurisdiction

The arbitral tribunal's jurisdiction arises from:

Arbitration Agreement: A written contract in which the parties agree to resolve disputes through arbitration rather than courts. This can be a clause in a larger contract (arbitration clause) or a standalone agreement (submission agreement).

National Law: Domestic arbitration statutes (e.g., UNCITRAL Model Law, FAA in the U.S., Arbitration Act 1996 in the UK) govern arbitration procedures and the powers of the tribunal.

Institutional Rules: If arbitration is administered (e.g., ICC, LCIA, SIAC), the rules of that institution also help define the tribunal's authority.

Scope of Jurisdiction

The tribunal's jurisdiction is limited by:

- **Subject Matter**: The dispute must be arbitrable under the applicable law. Some issues (e.g., criminal matters, family law, bankruptcy) may be non-arbitrable.
- **Parties**: Only those who are parties to the arbitration agreement are bound by the tribunal's jurisdiction (unless there's consent or legal basis to bind third parties).
- **Time**: There may be limitations on when a claim can be brought (e.g., limitation periods).
- **Territorial Limits**: The seat of arbitration and governing law affect what the tribunal can or cannot do.

Challenging Jurisdiction

A party may object to jurisdiction:

- **Before the tribunal** (typically as a preliminary issue).
- **Before a court**, either:
  At the outset (before arbitration begins), or
  After an award is rendered, as a ground to set it aside or resist enforcement.

Powers of arbitral tribunal

The powers of an arbitral tribunal refer to the authority granted to the tribunal (usually consisting of one or more arbitrators) to resolve disputes between parties under arbitration. The tribunal derives its powers from the **arbitration agreement**, applicable **arbitration law** (like the UNCITRAL Model Law or national laws such as the Indian Arbitration and Conciliation Act, 1996), and the **institutional rules** (if applicable). These powers are essential to ensure that the tribunal can effectively manage the arbitration proceedings and deliver a fair and binding award. Below is an overview of the main powers of an arbitral tribunal:

1. **Jurisdictional Powers**

- Rule on its own jurisdiction
- The tribunal can decide whether it has the authority to hear the dispute, including:
  Whether there is a valid arbitration agreement.
  Whether the dispute falls within the scope of the agreement.

2. **Procedural Powers**

- Determine procedural rules, unless agreed by the parties

- Set the timetable for submissions, hearings, and decisions.
- Decide whether hearings will be oral or based on documents.
- Admit or exclude evidence
- Decide the admissibility, relevance, materiality, and weight of any evidence.
- Order interim or conservatory measures

E.g., freezing assets, preserving evidence, or maintaining the status quo.

3. **Case Management Powers**

- Consolidate proceedings or hear multiple disputes together (if rules/laws allow).
- Decide on bifurcation (e.g., separating jurisdiction from merits).
- Control over submissions (statements of claim, defence, etc.).
- Sanction parties for procedural misconduct (in some cases).

4. **Powers Regarding Relief and Remedies**

- Award damages or compensation
- Order specific performance
- Grant declaratory relief
- Award interest
- Award costs, including:
- Legal fees
- Arbitration costs
- Other related expenses

5. **Settlement and Consent Awards**

If parties settle, the tribunal can issue a consent award, giving the settlement legal effect as an arbitral award.

6. **Issuance of Awards**

- Render final, interim, or partial awards.
- The award is binding and enforceable under laws like the New York Convention (in international arbitration).

7. **Powers Subject to Court Supervision**

While arbitral tribunals are independent, some powers may require court assistance, especially:

- Compelling witness attendance.
- Enforcing interim measures.
- Setting aside or enforcing awards.

Sources of Tribunal Powers

- Arbitration Agreement between the parties.
- National Arbitration Laws (e.g., UNCITRAL Model Law, Arbitration Act 1996 in the UK, etc.).
- Institutional Rules, e.g.:
- ICC Rules
- LCIA Rules
- SIAC Rules
- UNCITRAL Arbitration Rules

Grounds of Challenge to an Arbitrator

An arbitrator may be challenged based on lack of impartiality, independence, or qualifications. Typical grounds include:

Grounds for challenging an arbitrator

1. **Justifiable doubts about impartiality or independence**: This is the most common ground for a challenge.
- **Relationship with parties:** This can include a professional relationship, a personal connection, or a previous involvement in the dispute.
- **Financial or personal interest: I**f the arbitrator has a significant financial stake in the outcome or a personal interest in the matter.
- **Expressing an inclination :** If the arbitrator has made public statements or taken actions that suggest a bias toward one party.
- **Past involvement in the dispute:** This includes any previous roles related to the same dispute.
- **Lack of neutrality:** Issues may arise if there is an identity between a party and the arbitrator, or if the arbitrator is a legal representative of a party.

2.**Lack of qualifications:**

The arbitrator does not possess the specific expertise or qualifications that the parties agreed to in their arbitration agreement.

3.Failure to be impartial or independent:

An arbitrator must decline to act if they have any doubts about their own ability to be impartial or independent. Failure to disclose this could also be a ground for challenge.

Considerations

- An arbitrator must disclose any circumstances that could give rise to justifiable doubts about their impartiality.

- A challenge by a reasonable third party, with knowledge of the facts, would have justifiable doubts about the arbitrator's impartiality.

Procedure

Challenging an arbitral tribunal (i.e., one or more arbitrators) refers to the process by which a party questions the impartiality, independence, or qualifications of an arbitrator. This is a critical safeguard in arbitration to ensure a fair and unbiased process.

The procedure for challenging an arbitral tribunal can vary depending on the applicable arbitration rules (e.g., UNCITRAL, ICC, LCIA, national arbitration laws). Below is a general outline based on widely accepted practices, such as those found in the UNCITRAL Model Law and institutional rules:

Grounds for Challenging an Arbitrator

A party may challenge an arbitrator if:

There are justifiable doubts as to the arbitrator’s impartiality or independence, or

The arbitrator does not possess the qualifications agreed upon by the parties.

General Procedure to Challenge an Arbitrator

1. Filing the Challenge

- A party must submit a written statement of challenge.
- The challenge must include the reasons (with supporting evidence) for doubting the arbitrator’s impartiality, independence, or qualifications.
- This challenge must be submitted within a specified time limit (usually 15–30 days) after:
- The party becomes aware of the constitution of the tribunal, or
- The party becomes aware of the grounds for challenge (e.g., conflict of interest, prior relationship).

2. Notification to the Other Party and Tribunal

- The challenge is usually sent to:
- The arbitral institution (if institutional arbitration),
- The arbitrator being challenged,
- The other party or parties in the dispute,
- The arbitral tribunal (if fully constituted).

3. Response by the Challenged Arbitrator

The arbitrator may:

- Withdraw voluntarily, or

- Submit a response denying the allegations and remain on the tribunal.

4. Decision on the Challenge

If the arbitrator does not withdraw, and the other party does not agree to the challenge:

- The challenge is decided by the arbitral institution (e.g., ICC Court) or
- By an appointing authority (in ad hoc arbitration) such as under UNCITRAL rules.

5. Replacement of the Arbitrator

If the challenge is successful:

- The arbitrator is removed, and
- A new arbitrator is appointed according to the same procedure used for the original appointment.

ICC Rules (2021)

Article 14 of ICC Rules: Challenge must be made within 30 days of knowledge of the reason.

The ICC Court has the final decision on the challeng**e.**

Court Assistance

Even though arbitration is party-driven, courts play a supportive and supervisory role, particularly in the following areas:

A. **Before Arbitration**

- Appointment of arbitrators (if parties fail to appoint)
- Interim measures (to preserve assets or evidence before tribunal is constituted)

B. **During Arbitration**

- Court assistance in taking evidence
- Enforcement of interim measures issued by tribunal
- Court intervention in procedural issues (e.g., extending time, compelling attendance)

C. **After Arbitration**

- Setting aside of award on limited grounds (e.g., fraud, bias, jurisdictional defects)
- Enforcement of arbitral award
- Refusal to enforce foreign award under New York Convention grounds (e.g., public policy)

Confidentiality in arbitration is one of its most attractive features — but also one of the most misunderstood. Let's break it down so you're clear on what's protected, what isn't, and how to ensure confidentiality in your arbitration.

Confidentiality refers to the protection of information related to the arbitration process from being disclosed to third parties. It covers things like:

- The fact that arbitration is taking place
- Documents submitted (evidence, pleadings, exhibits)
- Hearing proceedings
- The arbitral award itself
- Communications between parties, counsel, and the tribunal
  But — it's important to understand that confidentiality is not automatic in all cases.

Sources of Confidentiality in Arbitration

Confidentiality may arise from several sources, but not all arbitrations are confidential unless covered under one or more of these:

1. Arbitration Agreement

   Parties can (and should) include a confidentiality clause.

2. Arbitration Rules of Institutions

   Different arbitration institutions have different rules:
   LCIA (London Court of Int'l Arbitration)
   Confidentiality is expressly provided
   ICC (International Chamber of Commerce)
   Parties are expected to keep proceedings confidential, but it's not automatic
   UNCITRAL Arbitration Rules
   No automatic confidentiality unless agreed

3. National Law

Some jurisdictions impose confidentiality by law (e.g., Australia, New Zealand). Others (e.g., the U.S.) do not impose it unless parties or institutional rules require it.

If a party goes to court to enforce or challenge the award, parts of the arbitration may become public, depending on local court procedures.

Key Limits to Confidentiality

Court proceedings:

If enforcement or annulment of an award is sought in court, confidentiality can be compromised.

Regulatory/legal obligations:

Parties may be required to disclose information to regulators or tax authorities.

Third-party involvement:

Experts, witnesses, funders, and others may need access — so confidentiality agreements may be necessary.

Resort to judicial proceedings

Resort to judicial proceedings in the context of arbitration refers to the limited circumstances where parties to an arbitration can or must involve a court. While arbitration is intended to be an alternative to litigation, courts still play a supportive and supervisory role — especially to ensure the process is fair and enforceable.

While parties usually agree not to go to court for the resolution of the main dispute, judicial proceedings are permitted or required in certain specific situations.

Here are the main ones:

A. **Compelling Arbitration**

If one party refuses to arbitrate, the other party can apply to a court to enforce the arbitration agreement.

B. **Appointment or Challenge of Arbitrators**

- If parties can't agree on an arbitrator (especially in ad hoc arbitration), they can request a court to appoint one.
- Similarly, courts may remove or replace an arbitrator due to bias or incapacity.

C. **Interim Measures**

Before an arbitral tribunal is formed (or if the tribunal lacks certain powers), parties can request a court to:

- Freeze assets
- Issue an injunction
- Preserve evidence
- This is allowed without waiving the arbitration agreement.

D. **Assistance with Evidence**

If a party refuses to produce documents or appear as a witness, the other party can seek a court order compelling cooperation.

This is especially useful when third parties are involved (since tribunals don't have subpoena powers over non-parties).

E. **Enforcement of the Arbitral Award**

Once an award is issued, the winning party may apply to a court to have it recognized and enforced like a judgment.

F. **Challenge or Setting Aside the Award**

Courts may review an award only on limited procedural grounds, such as:

- Lack of jurisdiction
- Serious breach of due process
- Arbitrator misconduct or bias
- Violation of public policy
- This is called setting aside (annulment) and is typically not an appeal on the merits.

Cost

Arbitration is often seen as a flexible and faster alternative to court litigation — but that doesn't always mean it's cheaper. The cost of arbitration depends on many factors including the complexity of the case, the rules of the arbitral institution, the number of arbitrators, and legal representation.

Main Components of Arbitration Cost

1. **Arbitrator's Fees**

Payment for arbitrators' time — often based on hourly rates or a percentage of the dispute amount.

2. **Administrative Fees**

Fees charged by the arbitral institution (e.g., ICC, SIAC, LCIA) to manage the case.

3. **Legal Fees**

Fees for lawyers, which can often be the largest single expense.

4. **Expert Witness Fees**

If experts (e.g., accountants, engineers) are used to support your case.

5. **Hearing & Venue Costs**

Cost of renting hearing rooms, virtual platforms, transcription, interpreters, etc.

6. **Other Costs**

Translation, document production, travel, etc.

Loser Pays": The losing party pays most or all of the costs (but this is at the discretion of the tribunal).

Split Costs: Sometimes tribunals divide costs equally or proportionally depending on outcomes.

Interim Cost Awards: Tribunals may order costs at different stages (e.g., after jurisdiction challenges).

Dispute Resolution Board

A Dispute Resolution Board (DRB) is a formal mechanism used primarily in construction and large infrastructure projects to prevent and resolve disputes between contracting parties (typically the owner and the contractor) during the life of a project.

A Dispute Resolution Board is a neutral, independent panel—usually composed of one to three experts—established at the start of a project. Its purpose is to:

- Monitor the project as it progresses
- Help prevent disputes
- Issue recommendations or decisions when disputes arise

The goal is to resolve conflicts early, on-site, and without the need for expensive and time-consuming litigation or arbitration.

Typical Structure of a DRB

- One-person DRB – For smaller projects
- Three-person DRB – For complex or large-scale projects

Members are usually:

- Experts in construction law, engineering, project management, or contract administration
- Appointed jointly by both parties, or each party nominates one, and the two select the third

Functions of a DRB

- Regular site visits (e.g. every few months)
- Review project progress and documentation

- Facilitate open communication between parties
- Provide informal advice to help prevent disputes
- Hold formal hearings if a dispute arises
- Issue written recommendations or binding decisions (depending on the contract terms)

Types of DRB Decisions

- Advisory/non-binding: Recommendation the parties can choose to accept or reject
- Binding (if specified): Decisions are enforceable, similar to arbitration

Advantages of a DRB

- Faster resolution of disputes
- Lower cost compared to arbitration/litigation
- Promotes cooperation and trust
- Reduces project delays
- Experts are already familiar with the project

Challenges or Limitation

- Additional upfront cost
- Requires all parties to cooperate in good faith
- May still need arbitration/litigation if DRB decisions are non-binding and rejected

Lok Adalats

Lok Adalats are a system of alternative dispute resolution (ADR) in India, designed to provide quick, inexpensive, and amicable settlement of disputes outside of the traditional court system.

Lok Adalat literally means "People's Court". It is a statutory forum under the Legal Services Authorities Act, 1987, where disputes/cases pending in courts or at the pre-litigation stage are settled amicably through conciliation and compromise.

Legal Status

- Established under the Legal Services Authorities Act, 1987
- Decisions of Lok Adalat have legal status equivalent to a civil court decree
- Award is binding on the parties and final
- No appeal lies against the Lok Adalat's award

Types of Lok Adalats

Permanent Lok Adalats (PLAs)

- For public utility services (e.g. transport, postal, telegraph, water, etc.)
- Can adjudicate disputes if conciliation fails (unlike other Lok Adalats)

National Lok Adalats

- Held nationwide on a single day for specific types of cases
- Organised monthly or periodically
- State, District, and Taluk Level Lok Adalats
- Organised regularly at different levels of the judiciary

Mobile Lok Adalats

- Travel to rural and remote areas to resolve disputes on the spot

Features of Lok Adalat

1. **Voluntary** : Both parties must agree to the settlement
2. **Free of Cost** :No court fees; if already paid, it is refunded
3. **Speedy** :Cases are resolved quickly, often in one sitting
4. **Simple Procedure** :No strict adherence to procedural laws or the Evidence Act
5. **Binding Decision** :Award is final and enforceable; no appeal allowed

Types of Cases Admitted

- Civil disputes (property, money recovery, family disputes)
- Compoundable criminal cases
- Cheque bounce cases under Section 138 of the NI Act
- Motor accident claim cases
- Matrimonial disputes
- Labour disputes
- Public utility disputes (via PLAs)

Benefits of Lok Adalats

- Reduces burden on courts.
- Saves time and money.
- Encourages harmonious relationships.
- Access to justice for poor and illiterate citizens.
- Promotes settlement culture over litigation.

Composition of Lok Adalat Panel

- Judicial Officer (sitting or retired) as the Chairman.
- Lawyers, social workers, or retired officials as members.
- Functions like a conciliation forum, not a court.

Distinguish between mediation, conciliation, arbitration and negotiation

Aspect	Conciliation	Negotiation	Mediation	Arbitration
Definition	A neutral third party (conciliator) suggests solutions to help resolve the dispute.	A voluntary discussion between parties to resolve a dispute without third-party involvement.	A neutral third party (mediator) facilitates communication between disputing parties	A neutral third party (arbitrator) hears the dispute and gives a binding decision
Third party role	Conciliator proposes solutions, may play an active role	No third party	Mediator facilitates, does not decide	Arbitrator decides the case like a judge
Binding nature	Non- binding unless parties agree to terms	Non- binding	Non binding	Binding decision (called award)
Legal recognition	Recognized under ADR laws	Informal, no legal status	Recognized under ADR laws	Legally binding under arbitration laws
Formality	Semi formal	Informal	Semi formal	Formal procedure
Confidentially	Yes	Yes	Yes	Yes
Control over outcome	Parties with conciliators suggestions	Full control by parties	Parties control outcome with help	Arbitrator controls outcome
Use in commercial disputes	Common	Limited	Common	Very common in international commercial law