

The Need for Adoption of Alternate Dispute Resolution in Educational Institutions: An Interdisciplinary Approach

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Abstract

Alternate Dispute Resolution mechanisms were introduced into the Indian legal system as a means to reduce the burden of backlog of piling cases on the courts, the time consumed in resolving such matters, the cost factor and the going ‘by the rule book’ methods to a more humane method along with ensuring access to justice to all by eradicating the myth of fear, finance with time associated with courts in the rural areas. Inclusive of methods like mediation, arbitration, negotiation, conciliation and Lok Adalats, ADR methods have proven to be very efficient in attaining its objectives. ‘Generational gap’, ‘depression’, ‘compatibility issues’, ‘egoistic’ and ‘adjustment issues’ seem to be general taglines quite predominantly associated with today’s generation. Though personality, mental and emotional disorders were prevalent since times immortal, it is seen that Gen Z is suffering its own vices as it is falling prey more intensively to these owing to flickering external environmental changes, media exposure, prevalent experimental educational regimes and the competitive world. Juvenile delinquency and the different behavioral attributes depicted by them have left psychologists, educationists and members of the legal fraternity equally intrigued as the parents. While ADR and child psychology may appear to be poles apart, conflict resolution as a central point is what binds them together. This research article tries to explore how the adoption of alternative dispute resolution mechanisms at apt levels of education can aid conflict resolution faced by the Gen Z both within and in the external environment.

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Introduction

The concept of alternate dispute resolution finds its roots in England as early as 1066 to resolve private disputes majorly by citizens themselves leading to establishment of arbitration for the very first time. Mediation found its name among the American colonies until in 1920, arbitration became prevalent by means of an Act making its prominence known in the 19th century.¹ Making its way to India, the closest resemblance to ADR is borne by the ‘Panchayat system’ which was followed in the villages in the ancient times. However, the first ‘arbitration method’ found its genesis owing to the 1859 Act which led to codification of the civil procedure. Today, section 89 of the CPC recognizes methods of arbitration, conciliation, mediation and Lok Adalat mechanism to resolve disputes - standing hand in hand with the fundamental rights of Article 14 and 19 along with the DPSP to ‘ensure free legal aid’ to individuals.²

Conflict resolution is defined as ‘the informal or formal process that two or more parties use to find a peaceful solution to their dispute.’³ ADR methods majorly employ conflict resolution mechanisms (indirectly) to aid the process of rendering settlement between parties which come before a third neutral party prima facie as ‘dispute’.

It is a well-established observation that increasing mental, emotional and personality disorders among today’s children and youth have become a cause of concern among professionals of all fields - specifically intriguing the legal, medical and educational professionals. Educators and early

¹ “History of Alternate Dispute Resolution.” UNF Dean of Students, University of Florida, www.unf.edu/deanofstudents/resolution/about-adr.html. Accessed 20 Feb. 2024.

² Dhawan, Astha. ADR in India: Development and Scope, VIA Mediation and Arbitration Centre, viamediationcentre.org/readnews/MTUy/ADR-in-India-Development-and-Scope#:~:text=One%20of%20the%20first%20legally,the%20English%20Act%20of%201899. Accessed 20 Feb. 2024.

³ Shonk, K. (2023) What is conflict resolution, and how does it work? PON. Available at: <https://www.pon.harvard.edu/daily/conflict-resolution/what-is-conflict-resolution-and-how-does-it-work/> (Accessed: 19 February 2024).

childhood professionals are interested in conflict resolution of young children because it has important contributions to children's cognitive and social development.⁴

While alternate dispute resolution may appear to be an aspect of law alone, to encourage 'out of court settlement of matters' and reduce the burden on the court of multiplicity of cases, this research paper tries to understand how implementation of right ADR mechanisms at appropriate levels of education in institutions can aid resolve the issues faced by children and youth alike.

Classification of Generations – the Literature

According to Bozavli⁵, in every 20-25 years cycle, a new generation is created in literature.

Christopher SA⁶ has classified the generations based on the year brackets in which one is born –

1. Silent generation – refers to those born between 1922 and 1945
2. Baby bloomers – refer to those born from 1946-64
3. X generation – refers to those born between 1965 to 1983
4. Y generation – refers to those children born between 1984 to 2002
5. Z generation – refers to those who are born after 2003⁷

Generational Psyche – A Psychological Understanding

According to Minnet⁸, each generation is categorized on its specific characteristics and qualities, such as:

⁴ Parvin, Afroza. Conflict Resolution in Children and the Association between Parenting Style and the Children's Own Social Skills, MSU, BearWorks, 2016, pp. 1–64. (Shantz,1987)

⁵ The millennials: A survey of the most cited literature; Choice; Middletown 48(12):2225-2231, Bozavli E (2016).

⁶ Journal of Education and Practice 7(26):69-76. Christopher SA (2016), Generation Y: educational considerations.

⁷ Parker, Kim, and Nikki Graff. "Generation Z Looks a Lot like Millennials on Key Social and Political Issues." Pew Research Center's Social & Demographic Trends Project, Pew Research Center, 17 Jan. 2019, www.pewresearch.org/social-trends/2019/01/17/generation-z-looks-a-lot-like-millennials-on-key-social-and-political-issues/.

⁸ Choice; Middletown 48(12):2225-2231.Bozavli E (2016). Understanding foreign language learning of generation Y. Journal of Education and Practice 7(26):69-76. Christopher SA (2016).

Generation Y: educational considerations. Austrian Journal of Advanced Nursing 33(2):35-44.

1. The traditional generation was attributed to respecting authority, took responsibility but found it very difficult to express themselves clearly.
2. The baby boomers are generally very positive in approach and look to avoiding conflicts in all possible situations.
3. The X generation was really creative, had ideas which were global in nature and were supportive of the concept of freedom.
4. The Y generation was very fascinated by technology, were good at multitasking, were tolerant, had a nature of sociability, had loads of self-confidence and were tolerant as well.
5. The Z generation are more associated and governed by technology.

Digital Generation – Psyche of the Hour

The psyche of the present generation is very different in comparison with the former generations. While the Y generation was brought up by parents who boosted self-growth, gained by materialism, more educational opportunities and expressing themselves better, the Gen Z is having a varied experience.

Groomed by the baby boomer's generation, Gen Z has strong family bonds, but has resulted in them being self-centered and making their own lives a priority.⁹ The overindulgence in social media and technology has led the current generation to live a more 'reel' based life rather than interacting with people in 'real life' initiating lesser human bonds and more virtual bonds.

This particular generation has even lived through a myriad of sudden shifts in the society like the legalization of same sex marriage which makes Gen Z more open minded and more accepting of differences in the society.

⁹ Moscrip, Amanda Nicole. "Generation Z's Positive and Negative Attributes and The ..." Generation Z' Ation Z's Positive and Negative Attributes and the Impact on Attributes and the Impact on Empathy After a Community-Based Learning Experience, University of North Florida, 2019, digitalcommons.unf.edu/cgi/viewcontent.cgi?article=1963&context=etd.

This is a depiction of the digital generation being an apt generation to be born in but, sadly, it is facing its own downfalls.

Sufferings in Silence of the Gen Z

1. **Emotional insecurity** – Real life interaction with actual human beings has become a phobia for the current generation- making it one of the many reasons for mental disorders like depression and anxiety. Additionally, though Gen Z is safe physically due to increased awareness in society regarding the same, it is the emotional fragility which kills them.¹⁰ In 1999, suicide rate was 10.57 per 100,000 which has raised to 14.4 deaths per 100,000 in 2022 among the youth.¹¹
2. **Exposure to inhumane acts may lead to mixed results** – According to Twenge¹², the exposure to terrorism and world shootings, whether direct or indirect, can either be taken as an inculcated ideology of the world being an unsafe place or have heightened global awareness of global oneness in the present generation.
3. **Social media addiction** – Research reveals that excessive use of social media causes sadness, sorrow, anxiety, and even poor sleep quality.¹³ Figures reveal that this is widely prevalent among today's youth.
4. **FOMO** – Social media seems to advertise itself as a means to prevent everyone from having the 'fear of missing out' moment. But psychologically, when a child/adolescent or even an

¹⁰ Twenge, "J. M. (2017). iGen : Why today's super-connected kids are growing up less rebellious, more tolerant, less happy and completely unprepared for adulthood and what that means for the rest of us, New York, NY, US: Atria Books."

¹¹ Heathers,Nirmita Panchal; "A Look At The Latest Suicide Data And Change Over the Past Decade"

¹² Twenge, J. M. (2017). iGen : "Why today's super-connected kids are growing up less rebellious, more tolerant, less happy and completely unprepared for adulthood and what that means for the rest of us. New York, NY, US: Atria Books.

¹³ Mrudhusha Mohanan, Suraj Kushe Shekhar, A Study on The Mediating Effect Of Fomo On Social Media (Instagram) Induced Travel Addiction And Risk Taking Travel Behavioral Intention In Youth Vol.14 Journal of Content, Community & Communication Amity School of Communication, 57- 67 (2021)

adult sees their friend having a joyous time in their absence through posts on social media indicating the same, a sense of worthlessness or even jealousy may creep in. It has been observed that FOMO is among the many indirect aftermaths of obsessive negative emotions which result in excessive social media usage.¹⁴

5. **Poor cognitive empathy** – Whether it be violent movies or objectifying video games, research proves that it reduces empathy in real life thus making one fall victim to technological vices like cyber bullying.¹⁵
6. **Peer pressure and blind mimicking** – This generation falls prey to peer pressure more easily and due to the need for acceptance, it is prone to engage in various kinds of activities like spending money to exhibit status, alcoholism, drugs, smoking etc. Research reveals that peer pressure and low self-esteem are responsible for obsessive social media habits too.¹⁶

Other problems which can be highlighted is that Gen Z is being given whatever they need and demand as a want, right from birth. Due to the better economic conditions and affordability of parents, they are generally stubborn on choices and willing to procure things by any means.

Need to Introduce ADR in Educational Institutions

The prominent ‘whys’ and ‘wherefores’ of the introduction of various alternate dispute resolution methods in educational institutions can be summarized as –

¹⁴ Mrudhusha Mohanan, Suraj Kushe Shekhar, *A STUDY ON THE MEDIATING EFFECT OF FOMO ON SOCIAL MEDIA (INSTAGRAM) INDUCED TRAVEL ADDICTION AND RISK TAKING TRAVEL BEHAVIORAL INTENTION IN YOUTH*, Vol.14, Journal of Content, Community & Communication Amity School of Communication, 57- 67 (2021)”

¹⁵ Moscrip, Amanda Nicole. “Generation Z’s Positive and Negative Attributes and The ...” Generation Z’ Ation Z’s Positive and Negative Attributes and the Impact on Attributes and the Impact on Empathy After a Community-Based Learning Experience , University of North Florida, 2019, digitalcommons.unf.edu/cgi/viewcontent.cgi?article=1963&context=etd.

¹⁶ Xu, Xiaopan et al. “Peer pressure and adolescent mobile social media addiction: Moderation analysis of self-esteem and self-concept clarity.” *Frontiers in public health* vol. 11 1115661. 11 Apr. 2023, doi:10.3389/fpubh.2023.1115661

1. **Increased juvenile delinquency** – There are alarming rates of crimes being committed by children these days owing to various reasons. Theft of a small sum of money, relationship failure, non-acceptance of norm, peer pressure, rivalry between individuals in many cases appear to be the inlying reasons of such gruesome crimes. According to the NCRB report of 2018, in India, juveniles were accountable for 31,591 crimes committed.¹⁷
2. **Poor cognitive empathy** – In adolescents and children, it has been found that they have lower levels of cognitive empathy compared to adults.¹⁸ Lack of emotional accuracy is also found to be linked with negative psychopathy. Indulging in bullying and ragging are instances of low empathy levels. 40% of students revealed to have had experienced ragging at college.¹⁹ In India, victimization, reported by 16% of school goers to such vices, often results in depression, anxiety and contribute to delinquency along with having had traumas lasting into adulthood.²⁰
3. **Poor risk-taking approach** – Inability to take positive risks can make children, youth with young adults alike bear injustice, violence and stability issues in silence due to low self-esteem issues, fear of embarrassment and being made fun of.
4. **Higher risk of MSUDs** – media addiction, exposure to violent video games and movies, improper home environment, mimicking the peer for acceptance, experimentation in educational institutions to produce ‘finished industrial goods’ rather than ‘individuals fit for societal survival’ along with societal pressure stand as factors causing mental health disorders and substance abuse among the younger generation. Research reveals adolescents

¹⁷ Gupta, Madhu Kumari et al. “Juvenile's Delinquent Behavior, Risk Factors, and Quantitative Assessment Approach: A Systematic Review.” *Indian journal of community medicine: official publication of Indian Association of Preventive & Social Medicine* vol. 47,4 (2022): 483-490. doi:10.4103/ijcm.ijcm_1061_21

¹⁸ Kim, Eun Jin et al. “Cognitive and Emotional Empathy in Young Adolescents: an fMRI Study.” “Soa--ch'ongsoryon chongsin uihak = Journal of child & adolescent psychiatry vol. 31,3 (2020): 121-130. doi:10.5765/jkacap.200020”

¹⁹ Rana, Monica et al. “Prevalence and correlates of bullying perpetration and victimization among school-going adolescents in Chandigarh, North India.” *Indian journal of psychiatry* vol. 62,5 (2020): 531-539. doi:10.4103/psychiatry.IndianJPsychiatry_444_19

²⁰ Rana, Monica et al. “Prevalence and correlates of bullying perpetration and victimization among school-going adolescents in Chandigarh, North India.” *Indian “journal of psychiatry* vol. 62,5 (2020): 531-539. doi:10.4103/psychiatry.IndianJPsychiatry_444_19

and young adults are more prone to disability adjusted lifestyle, along with schizophrenia and bipolar disorders as a result of the same.²¹ Young adults between the 15-29 years age group stand prone to substance abuse while those between 15-25 years stand vulnerable to alcohol addiction. If the younger generation falls into this trap, it will definitely ruin the possibility of employment and subject them further to discrimination with isolation as adults.²²

- 5. Vulnerable to disturbed adulthood due to unresolved childhood trauma** – With exposure to unexpected instances of communal, school violence and family trauma in society adding on to the highly sensitive nature of Gen Z, it makes them prone to depression due to lower resilience levels.²³

Additionally, exposure of the young to conflicts without being able to resolve them ‘amicably’ but rather ‘violently’ is another concern. Though exposure of Gen Z may act as a remedy to the ego-centric approach of theirs to an extent, too much exposure to conflicts frequently is found to pose higher risks of negative behavioral development. Inability to resolve conflicts with fellow peers are often seen as failure of socialization by parents and teachers alike.²⁴

“A Stitch in Time Saves Nine”

ADR mechanisms like mediation, negotiation and conciliation at appropriate levels in all educational institutions can definitely help address the above-mentioned underlying conflicts before they develop into unaddressed disputes which may reveal themselves into violent storms in the long run.

²¹ Mokdad AH, Forouzanfar MH, Daoud F, Mokdad AA, El Bcheraoui C, Moradi-Lakeh M, et al. Global burden of diseases, injuries, and risk factors for young people's health during 1990-2013: A systematic analysis for the global burden of disease study 2013. *Lancet*. 2016;387:2383–401

²² Christensen H, Reynolds CF 3rd, Cuijpers P. Protecting youth mental health, protecting our future. *World Psychiatry*. 2017;16:327–8

²³ Harari, T.T., Sela, Y. & Bareket-Bojmel, L. Gen Z during the COVID-19 crisis: a comparative analysis of the differences between Gen Z and Gen X in resilience, values and attitudes. *Curr Psychol* 42, 24223–24232 (2023). <https://doi.org/10.1007/s12144-022-03501-4>

²⁴ Parvin, “Afroza. Conflict Resolution in Children and the Association between Parenting Style and the Children’s Own Social Skills, Missouri State University, BearWorks, 2016, pp. 1–64. (Shantz & Hobert, 1989)

1. **Mediation** – As to the ruling of the Honorable Supreme Court of India, it is a methodical procedure where an impartial third party utilizes certain communication and bargaining strategies. It is a procedure that helps parties settle their differences. Additionally, it is a process of settlement by which disagreeing parties reach a compromise.²⁵

As mediation is a party-controlled process with a mediator only assisting the process, it can be efficient in resolving conflicts between students- specifically Gen Z who carry ‘my life, my rules attitude’ and prefer to handle problems themselves. This can be employed at all levels of education. Employing mediation at primary school level and Montessori can help children realize that disputes need not always demand violence to bring peace, it can even be resolved through talking things over or expressing one’s self positively to the other. This will help them grow into healthy adults rather than committing crimes to address repressed emotions. The mediator, in the early stages of education, can be teachers or the principal to assist them in resolving conflicts. Later on, such children, as grown adults, having been exposed to the art of diplomacy and confidentiality at a pretty early stage, can help mediate disputes rather than aggravate them or enjoy them as a mere bystander. Also, it helps build a healthy character of positive body language, strong communication skills, empathy, law abiding attitude, with trustworthiness and being high on morals to the right extent.

2. **Conciliation** – “Conciliation is the settlement of a dispute by mutual and friendly agreement with a view to avoiding litigation.”²⁶ This process involves a conciliator who makes non-binding proposals to parties involved. This may be invoked when there is a conflict between the educational institution’s management and the student or, when the guardian of a child is involved with the management. Conciliator, as a third neutral party may help ease the situation between the management and students or when guardians are in the picture. Unlike a mediator, a conciliator can play the role of an advisor. This process

²⁵ *Mediation*, Mediation and Conciliation Project Committee Supreme Court of India, <https://main.sci.gov.in/pdf/mediation/Brochure%20-%20MCPC.pdf>

²⁶ *Conciliation*, merriam-webster”, <https://www.merriam-webster.com/legal/conciliation>

can help prevent the tarnish of reputation of both the management and the student alike while helping solve the situation in confidentiality with zero court hassles - just like having a conciliator in every factory helping resolve internal issues inside the organization without much publicity.

3. Arbitration – “Arbitration is a process in which an independent person makes an official decision that ends a legal disagreement without the need for it to be solved in court”.²⁷ In order to proceed with arbitration there needs to be an arbitration clause or an agreement in a contract. Just like arbitration agreements help as a prime source for dispute resolution yet to arise between companies, before enrollment of students to educational institutions, they can be asked to sign an arbitration agreement in which it is clearly stated that in case of any involvement in activities like striking against the institution, damaging public property (like furniture in the classroom), defaming of the institution or any disputes, it shall be dealt by arbitral proceedings. Arbitration can be introduced at secondary school and professional education level. Also, the arbitral award is of binding nature.

4. Hybrid ADR mechanism models – A blend of the above-mentioned mechanisms in educational institutions can help deal with all kinds of disputes which arise which demand such a blend. For instance, in a situation where the management has raised the fee exorbitantly as it needs to pay its staff, but the parents of the wards find it difficult to pay and see it as though the institution of education is scamming them, resulting in a deep rooted dispute, conciliation can help both parties see each other’s side and understand the situation in order to reach the best alternative negotiating agreement possible; if both parties are unable to consider the conciliator’s non-binding proposal, arbitration can be sought for by parties voluntarily entering into an arbitration agreement.

It is worthy to note that psychology-oriented counseling methods are incorporated in alternate dispute resolution mechanisms while trying to unveil underlying conflicts along with the various negotiation styles which assist parties reach a settlement.

²⁷ *Arbitration*, Cambridge Dictionary, <https://dictionary.cambridge.org/dictionary/english/arbitration>

Counseling – an ADR Mechanism Disguised

Though counseling is not expressly considered to be a kind of alternate dispute resolution mechanism, it is one of the many core techniques invoked for conflict management and resolving of disputes by mediators, conciliators and negotiators alike. This makes counseling an integral component to be established at all educational institutions.

Counseling involves a talking therapy that involves a trained therapist listening to one and helping one deal with one's emotional problems. It helps one deal with depression, anxiety, relationship breakdowns, negative emotions, anger, loss, pain and even when there are issues with self-acceptance.²⁸

Having highlighted the various problems being faced by today's generation, access to affordable and viable counseling services at all levels of education is crucial too, along with implementation of appropriate ADR mechanisms.

Involving positive psychology mandatorily as a part of the curriculum, counseling can help students develop a positive risk-taking attitude, ensure emotional security, handle peer pressure and addictions positively, accept real life than getting lost in 'reel' life and develop heightened levels of 'empathic accuracy'.

'The non-judgmental ear' in the form of a counselor, helps students realize that being at peace with one's self is reality, and the external environment is all but a mirage. The problem of identity crisis faced by many youngsters can be transformed to a solution of self-acceptance.

Additionally, family counseling sessions at educational institutions can help students become less self-centered and will help build stronger real-life bonds with family rather than living in self-

²⁸ Counselling, (Feb. 5, 2021), <https://www.nhs.uk/mental-health/talking-therapies-medicine-treatments/talking-therapies-and-counselling/counselling/>.

isolation which can lead to self- destruction owing to the emotional insecurity factor of the present generation. This is particularly feasible in case of college students and graduates who find it difficult to mingle with family due to awkwardness and family issues. It is to be observed here that family therapy and family counseling are two different things. Family counseling is much broader in application and involves therapy with other techniques adopted by psychologists and social workers to resolve conflicts alongside ensuring healthy communication patterns.²⁹

Alongside, child psychology is also a matter of concern today as parental care seems to be fading away from many of the young lives owing to the pressure of financial security weighing on the shoulders of both the parents. As the attributes of children and students change over generations, parenting styles need to vary too. Introducing counseling for parents in educational institutions can help them understand kids and tend to their needs accordingly with the time they get to spend with their children.

Conclusion

Having analyzed psychology and the problems faced by the youth of today's generation along with the base associated with it, the need for specific ADR mechanisms at all levels of educational institutions is felt pretty strongly in addition to mandatorily accessible counseling facilities for all. Introducing ADR mechanisms can help address the shortcomings faced by the Z Generation, maintain a cordial bonding between students and the management of educational institutions while addressing disputes in addition to bettering human relations. Also, such implementation done at the earliest would definitely help children understand pretty early in life that conflicts – whether within or outside, can be resolved by the means of active listening, inculcating empathy and open communication rather than using violence which causes damage both ways. It will also enable mitigating the negative effect that media is having on children by exposing them to inhumane and violent acts along with reducing the chances of involving in negative vices like bullying, alcoholism etc as empathetic accuracy shall increase. A blend of apt ADR mechanisms and

²⁹ Sutton, Jeremy. "What Is Family Therapy and Family Counseling?" Therapy Exercises, 27 June 2017, positivepsychology.com/family-therapy/.

counseling when introduced in educational institutions at all levels will not only help irradiate and end conflicts at a fairly early stage before they present themselves evidently as legal disputes increasing the burden and multiplicity of matters later on in courts but will also help children escape from vulnerable claws of childhood trauma which may leave a long-term scar in life. It shall even aid the parents and teachers in understanding the diverse needs of the child and adopting apt parenting styles to ensure a safe yet healthy childhood.

In conclusion, adoption of ADR methods up to the professional education levels is a need of an hour to produce healthy individuals with apt life skills to thrive as a boon for the society and also to reduce the number of ever piling cases which otherwise will confront the judiciary in the coming years.