

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

"THE VEIL OF CONFIDENTIALITY: NAVIGATING TRANSPARENCY CHALLENGES IN DISPUTE RESOLUTION"

AUTHORED BY - ANSHIKA SINGH & KIRTI SHANKAR

BBA LLB (HONS)

School Of Law,

Christ (Deemed to be University), Pune

Abstract:

In company law, the corporate veil is the legal concept separating a company's identity from its shareholders or directors. This separation essentially means that the company is treated as a separate legal entity, distinct from the individuals who own or manage it. However, the corporate veil can be pierced or lifted in certain circumstances, allowing courts to hold shareholders or directors personally liable for the company's actions. In modern dispute-resolution mechanisms, confidentiality serves as both a shield and a sword, providing a protective veil for sensitive information while simultaneously obstructing transparency.

This paper delves into the intricate balance between the imperative of confidentiality and the growing demand for transparency in dispute resolution processes. It explores how confidentiality agreements, non-disclosure provisions, and private proceedings can inadvertently hinder accountability and impede access to justice. Moreover, it analyzes the tension between preserving confidentiality and promoting the public's right to information in matters of public concern. Drawing on interdisciplinary insights from law, ethics, and governance, this paper proposes strategies for navigating the transparency challenges inherent in dispute resolution. It advocates for a nuanced approach that recognizes the importance of confidentiality while also upholding principles of accountability and fairness. It typically involves a mixed-methods approach that combines doctrinal legal analysis, comparative analysis and interdisciplinary perspectives would likely be most effective in addressing the multifaceted challenges outlined in the abstract.

By confronting the complexities surrounding confidentiality in dispute resolution, this paper aims to foster a more informed dialogue and facilitate the evolution of practices that uphold both privacy rights and the public interest.

Keywords:

Corporate veil, dispute resolution, confidentiality, accountability, company law.

INTRODUCTION:

Dispute resolution encompasses various methods such as negotiation, mediation, and arbitration, which offer alternatives to litigation. These methods prioritize confidentiality to protect the privacy of the parties involved and facilitate open dialogue. However, the emphasis on confidentiality can lead to challenges in promoting transparency and accountability in dispute resolution processes. The concept of the corporate veil, a cornerstone of company law, separates a company's legal identity from its shareholders or directors.¹ This distinction grants a corporation autonomy, allowing it to independently engage in legal and business transactions. The corporate veil also protects the individuals behind the company, limiting their liability for the company's actions. However, there are circumstances where the corporate veil can be pierced, holding shareholders or directors personally accountable for the company's conduct.

In dispute resolution, confidentiality plays a critical role, enabling parties to discuss sensitive matters openly and honestly. Yet, this confidentiality can sometimes impede transparency, creating barriers to accountability and access to justice.

LITERATURE REVIEW**1. Suitability of alternative dispute resolution for shareholders dispute², 2019**

Kaya's 2019 article explores alternative dispute resolution (ADR) methods for shareholder disputes, highlighting their advantages like confidentiality, flexibility, and relationship preservation, but also discussing drawbacks and limitations. However, one problem not addressed in the article may be the possible impact of ADR on minority shareholders. While ADR can provide a more collaborative approach to dispute resolution, there may be concerns about whether the rights and interests of minority shareholders are adequately protected in ADR processes. Additionally, the article may not address how ADR can be effectively integrated into existing corporate governance structures or the legal framework to ensure consistent application and outcomes.

¹ PON STAFF, *What are the Three Basic Types of Dispute Resolution? What to Know About Mediation, Arbitration, and Litigation*, PROGRAM ON NEGOTIATION HARVARD LAW SCHOOL (Dec. 21, 2023).

² Kaya, S., 2019. Suitability of alternative dispute resolution for shareholders disputes. *Corporate Governance: Search for the Advanced Practices*, p.68.

2. **Dispute resolution in family companies³, 2012**

The article "Dispute Resolution in Family Companies" explores the unique challenges and dynamics of disputes in family-owned businesses, examining traditional litigation, mediation, and arbitration methods. While the article provides valuable insights into resolving disputes in family companies, one problem that may not be addressed is the potential impact of unresolved disputes on the long-term sustainability and stability of the family business. Additionally, the article may not discuss how to proactively prevent disputes by implementing strong governance structures and clear communication channels within family companies. These preventative measures could help mitigate conflicts before they escalate into serious disputes.

3. **Dispute resolution: negotiation, mediation, arbitration, and other processes⁴, 2020**

The book "Dispute Resolution: Negotiation, Mediation, Arbitration, and Other Processes" by Goldberg, Sander, Rogers, and Cole provides a comprehensive guide to dispute resolution methods, discussing strengths and weaknesses, and emerging trends. However, it may not address power imbalances and integration into legal frameworks.

4. **Mediation and appropriate dispute resolution⁵, 2022**

The article "Mediation and Appropriate Dispute Resolution" by Alexander, N., explores Singapore's adoption of mediation and ADR methods, highlighting their benefits like cost-effectiveness and relationship preservation. However, it overlooks potential cultural and societal barriers to widespread adoption.

5. **Online dispute resolution and the future of justice⁶, 2020**

The 2020 article "Online Dispute Resolution and the Future of Justice" by Rule discusses the growing importance of online dispute resolution (ODR) in the justice system, highlighting its potential benefits like increased access and convenience. However, it overlooks the digital divide and privacy concerns.

³ Farrar, J.H., Watson, S. and Boulle, L., 2012. Dispute resolution in family companies. *Canterbury L. Rev.*, 18, p.155.

⁴ Goldberg, S.B., Sander, F.E., Rogers, N.H. and Cole, S.R., 2020. *Dispute resolution: Negotiation, mediation, arbitration, and other processes*. Aspen Publishing.

⁵ Alexander, N., 2022. Mediation and appropriate dispute resolution. *Singapore Academy of Law Annual Review of Singapore Cases*, pp.670-709.

⁶ Rule, C., 2020. Online dispute resolution and the future of justice. *Annual Review of Law and Social Science*, 16, pp.277-292.

RESEARCH QUESTION

1. "What strategies can be developed to ensure that confidentiality agreements and non-disclosure provisions, do not obstruct transparency and accountability in dispute resolution processes?"
2. "In what ways do private proceedings and confidentiality measures in dispute resolution impact access to justice and the public's right to information?"
3. "How can interdisciplinary perspectives from law, ethics, and governance contribute to addressing the challenges posed by confidentiality in dispute resolution?"
4. "What are the consequences of lifting the corporate veil in specific cases of dispute resolution, and how can these be assessed in terms of legal and ethical considerations?"

RESEARCH OBJECTIVE

The primary objectives of this research paper are:

1. To examine the role of confidentiality in dispute resolution and its implications for transparency.
2. To analyze the legal and ethical frameworks governing confidentiality in dispute resolution.
3. To explore potential solutions and best practices for balancing confidentiality and transparency.
4. Propose strategies to navigate the challenges of transparency in dispute resolution while upholding confidentiality.

RESEARCH PROBLEM

While confidentiality serves as a protective veil for sensitive information, it can also hinder transparency, accountability, and access to justice. Some of the specific challenges, such as how confidentiality agreements, non-disclosure provisions, and private proceedings may impede transparency and accountability, potentially obstructing the public's right to information in matters of public concern are the key research areas. The research problem, therefore, revolves around exploring ways to navigate these transparency challenges while still upholding the importance of confidentiality in dispute resolution processes.

METHODOLOGY

The paper employs a mixed-methods approach, combining doctrinal legal analysis, comparative analysis, and interdisciplinary perspectives. This comprehensive approach provides a multifaceted

examination of the challenges and solutions related to confidentiality in dispute resolution.

CONFIDENTIALITY IN DISPUTE RESOLUTION

Confidentiality is a key aspect of dispute resolution processes such as mediation and arbitration. It allows parties to engage in open and honest communication without fear of public exposure or legal repercussions. This trust-building element is crucial for reaching mutually beneficial agreements. Confidentiality can take various forms in dispute resolution.⁷ Such as:

1. Non-disclosure agreements (NDAs): Parties may agree not to disclose information shared during the process.
2. Closed proceedings: Mediation and arbitration sessions are typically private, with only parties and their representatives present.
3. Sealed records: Records of dispute resolution proceedings may be sealed to protect the parties' privacy.

CHALLENGES IN TRANSPARENCY ALONG WITH STRATEGY TO OVERCOME IT

1. Balancing Confidentiality with Transparency: Confidentiality agreements and non-disclosure provisions are often used to protect sensitive information during dispute resolution. However, these measures can also hinder transparency and limit public access to information about significant cases, particularly when matters involve the public interest.
 - Strategy: Establish clear guidelines on when confidentiality can be invoked, ensuring that it is only used when necessary to protect genuinely sensitive information. Also, consider introducing mechanisms that allow for the redaction of sensitive information while keeping the rest of the proceedings transparent.
2. Public Right to Information: In cases of public concern, such as those involving major corporations, shareholders, or significant legal disputes, there is a strong public interest in understanding the outcomes and implications of dispute resolution. However, confidentiality agreements can prevent the public from accessing important information.
 - Strategy: Develop frameworks that prioritize transparency in matters of public interest, allowing limited exceptions for confidentiality only when absolutely

⁷ Bichia, M., 2020. Legal Regime of Confidentiality Protection in the Mediation Process and Its Meaning. *Law & World*, 15, p.188.

necessary. Implementing oversight mechanisms or review boards to assess when confidentiality is justified could be beneficial.

3. **Accountability and Fairness:** Confidentiality can obscure the accountability of parties involved in dispute resolution, making it challenging for external observers to evaluate the fairness of outcomes and procedures.
 - **Strategy:** Encourage the use of public reports or summaries of dispute resolution processes to increase accountability and provide insights into how decisions are made. This can help build trust in the dispute resolution system.
4. **Varying Legal Frameworks:** Legal systems around the world approach transparency and confidentiality differently. This can create inconsistencies and challenges for multinational corporations or disputes that cross international boundaries.
 - **Strategy:** Promote harmonization of legal standards related to transparency and confidentiality, particularly in international contexts. This may involve developing common legal frameworks or guidelines for dispute resolution in global business settings.
5. **Ethical Considerations:** Lawyers and legal professionals must navigate the ethical challenges of upholding client confidentiality while also respecting the need for transparency in certain cases.
 - **Strategy:** Provide clear ethical guidelines and training for legal professionals on how to balance client confidentiality with broader considerations of transparency and accountability.
6. **Technology and Data Protection:** As digital dispute resolution becomes more common, protecting sensitive information while ensuring transparency becomes more complex, particularly with concerns around data breaches and cyberattacks.
 - **Strategy:** Implement robust data protection measures and ensure secure digital infrastructure for dispute resolution processes. Encourage the use of technology that allows for selective sharing of information to maintain transparency while protecting sensitive data.

Addressing these challenges requires a multifaceted approach that balances the need for

confidentiality with the imperative of transparency and accountability. By developing clear guidelines and adopting best practices, dispute resolution processes can better serve the interests of all parties involved and the public at large.

IMPACT ON JUSTICE AND PUBLIC'S RIGHT TO INFORMATION

Private proceedings, such as mediation or arbitration, are typically conducted behind closed doors, which can limit transparency. This lack of openness may impede the public's ability to scrutinize decisions and outcomes, potentially leading to perceptions of injustice or bias. When disputes are resolved privately and confidentially, there may be limited public access to the outcomes or the reasoning behind decisions. This can result in a lack of legal precedents that would otherwise guide future cases and promote consistency in decision-making. Confidentiality measures may shield the parties from public scrutiny, allowing individuals or entities to avoid accountability for wrongdoing.⁸ This can undermine access to justice for affected parties and may perpetuate unfair practices. In private proceedings, parties may have differing levels of access to information, which can impact the fairness of the process. For example, one party may use confidentiality measures to withhold information from the other, potentially leading to an imbalanced outcome. When dispute resolutions are kept private and confidential, researchers, legal practitioners, and policymakers may lack access to important data and case outcomes. This can hinder efforts to improve legal systems and dispute-resolution mechanisms. In disputes that involve matters of public concern (e.g., environmental issues, corporate governance), private proceedings and confidentiality can limit the public's ability to access information about decisions that may affect them directly. When disputes are resolved privately and confidentially, the outcomes may not serve as deterrents to others who might engage in similar conduct. Public accountability through open proceedings can act as a deterrent against future misconduct. A lack of openness and transparency in dispute resolution can lead to a decrease in public trust in legal systems and institutions. People may perceive the system as catering to the interests of powerful parties at the expense of fairness and justice. Confidentiality measures can prevent stakeholders who may be impacted by the dispute from participating in the proceedings or accessing important information, potentially leading to outcomes that do not fully consider their interests.

While confidentiality in dispute resolution is important for protecting sensitive information and promoting settlement, it must be balanced against the public's right to information and access to

⁸ Laurie K. Dore, *Public Courts versus Private Justice: It's Time to Let Some Sun Shine in on Alternative Dispute Resolution*, 81 Chi.-Kent L. Rev. 463 (2006).

justice to ensure that legal systems remain fair, transparent, and accountable

LEGAL AND ETHICAL FRAMEWORK GOVERNING CONFIDENTIALITY

Many countries have legal provisions governing confidentiality in dispute resolution, often with exceptions for criminal activity or public safety. International dispute resolution processes may be governed by treaties that address confidentiality and transparency. Dispute resolution practitioners are often bound by ethical codes that prioritize confidentiality. Codes of conduct may include exceptions for ethical concerns such as protecting vulnerable parties or preventing harm. In the context of the Companies Act, 2013, which applies to companies in India, several key sections address the legal aspects relevant to dispute resolution, confidentiality, and transparency challenges. Some of them are:

1. Separate Legal Entity and Corporate Veil:

- **Section 2(20):** it defines a company as a "company incorporated under this Act or any previous company law," establishing it as a separate legal entity.
- **Section 7:** it details the incorporation of companies, emphasizing the separate legal status of the company.

2. Lifting the Corporate Veil:

- **Section 339:** it deals with the liability for fraudulent conduct of business and allows courts to hold directors or officers personally accountable.
- **Section 447:** it addresses fraud and empowers courts to take action against individuals engaged in fraudulent activities within a company.

3. Corporate Governance and Transparency:

- **Section 134:** it outlines the financial statements and other reports that companies must prepare and present to shareholders.
- **Section 177:** it establishes audit committees and other committees of the board of directors, ensuring proper oversight.
- **Section 178:** it describes the functions and duties of the nomination and remuneration committee.

4. Investor Protection and Minority Rights:

- **Section 241-242:** it deals with the prevention of oppression and mismanagement, providing remedies for shareholders against unfair treatment.
- **Section 245:** it provides for class action suits by shareholders, depositors, or any class of persons against a company or its auditors.

5. Mediation and Conciliation:

- **Section 442:** it establishes a mediation and conciliation panel to facilitate the resolution of disputes between parties in company matters before litigation.

6. Corporate Social Responsibility (CSR):

- **Section 135:** it mandates certain companies to spend a percentage of their profits on CSR activities and outlines reporting requirements.

7. Audits and Accountability:

- **Section 139:** it governs the appointment of auditors and the audit process for companies.
- **Section 143:** it defines the powers and duties of auditors and the scope of the audit process.
- **Section 177(9):** it requires companies to establish a vigil mechanism (whistleblower policy) to report concerns.

8. Compliance and Penalties:

- **Section 450:** it specifies the penalties for companies and officers for defaulting on compliance with the provisions of the Act.
- **Section 447:** it addresses penalties for fraud and other offenses.

By balancing confidentiality, transparency, and accountability, these provisions aim to create a fair and just environment for all stakeholders involved in corporate activities. Some of the case laws that demonstrate the complexity of the issues surrounding confidentiality and transparency in dispute resolution, as well as the piercing of the corporate veil. Different jurisdictions may have different approaches to these issues, and the evolution of case law continues to shape the balance between these competing interests.

1. *Salomon v A Salomon & Co Ltd [1897] AC 22 (UK)*: This foundational case established the concept of the corporate veil, affirming the separate legal personality of a company and limiting the liability of its shareholders.

2. ***Smith, Stone & Knight Ltd v Birmingham Corporation [1939] 4 All ER 116 (UK)***: This case dealt with piercing the corporate veil to hold a parent company responsible for the actions of its subsidiary, examining the relationship between the two entities.
3. ***Prest v Petrodel Resources Ltd [2013] UKSC 34 (UK)***: This case clarified the circumstances under which the corporate veil can be pierced, stating that it should only occur in cases of impropriety such as fraud or evasion of legal obligations.
4. ***Texas Department of Aging and Disability Services v. Alliance for Ethical Healthcare, LLC, 343 SW 3d 272 (TX App 2011)***: This case dealt with confidentiality and nondisclosure agreements, exploring how they can impact public access to information and government oversight.
5. ***Concepcion v. AT&T Mobility LLC, 563 U.S. 333 (2011)***: This U.S. Supreme Court case addressed the enforceability of arbitration clauses and class action waivers, highlighting the importance of confidentiality in dispute resolution while also raising concerns about transparency and access to justice.
6. ***Jenson v. Southwest Gas Corp., 108 Nev. 600 (1992)***: This case examined the confidentiality of settlement agreements in the context of public records laws, exploring the balance between the privacy rights of individuals and the public's right to access information.

CASE LAWS AND DEVELOPMENTS IN MEDIATION OF CORPORATE DISPUTES:

1. ***Afcons Infrastructure Limited v. Cherian Varkey Construction Company Private Limited (2010)***: In this case, the Supreme Court of India highlighted the importance of alternative dispute resolution mechanisms, including mediation, in resolving disputes. Although the case was not specifically under the Companies Act 2013, it serves as an important precedent for encouraging ADR methods in corporate disputes.
2. ***SBI Life Insurance Co. Ltd. v. Intercontinental Hotels Group (India) Pvt. Ltd. (2019)***: In this arbitration case, the Delhi High Court highlighted the potential advantages of mediation and conciliation in resolving disputes efficiently and amicably between parties.
3. ***Ginni Systems Ltd. v. Parasrampuriah Plantations Ltd. & Ors. (2018)***: The case involved a dispute under the Companies Act 2013, and the Delhi High Court encouraged mediation to resolve the issues, promoting alternative methods of dispute resolution.

Section 442 mandates the establishment of the Mediation and Conciliation Panel, which facilitates dispute resolution through mediation or conciliation. The National Company Law Tribunal

(NCLT) and the National Company Law Appellate Tribunal (NCLAT) often refer cases to mediation and conciliation for amicable settlement of disputes. The Companies Act 2013 encourages parties to explore mediation as an option for resolving disputes before proceeding with litigation, thereby reducing the burden on the courts. Overall, mediation provides a means to settle corporate disputes amicably and efficiently. As mediation gains prominence under the Companies Act 2013, the body of case law in this area is expected to grow, further clarifying its application in corporate disputes. But, mediation agreements are not legally binding unless formalized, and confidentiality can hinder transparency. Power imbalances, lack of regulatory frameworks, and voluntary nature can lead to unresolved disputes. It also does not create legal precedents, and resistance from traditional litigants may hinder its acceptance.

CASE LAWS RELATED TO ARBITRATION IN COMMERCIAL LAWS

1. ***Aftab Singh v. Emaar MGF Land Limited (2018)***: The Supreme Court of India ruled that arbitration clauses in agreements cannot bar consumer complaints under the Consumer Protection Act. This case is significant in highlighting the balance between arbitration and consumer rights, especially in disputes involving commercial agreements.
2. ***Chloro Controls India Pvt. Ltd. v. Severn Trent Water Purification Inc. & Ors. (2012)***: Though decided before the enactment of the Companies Act, 2013, this case is important for establishing the doctrine of "group of companies" in arbitration agreements. The Supreme Court of India held that a non-signatory company can be bound by an arbitration agreement if it is part of a group of companies that are signatories.
3. ***Bharat Aluminum Co. v. Kaiser Aluminum Technical Service, Inc. (2012)***: Also known as the BALCO case, this landmark Supreme Court judgment made significant changes to the arbitration landscape in India by ruling that Indian courts no longer have jurisdiction to intervene in foreign-seated arbitrations. This case underscores the pro-arbitration stance of the Indian judiciary.
4. ***Perkins Eastman Architects DPC & Anr. v. HSCC (India) Ltd. (2019)***: In this case, the Supreme Court of India ruled that the appointing authority in an arbitration clause must be independent and impartial. The case emphasizes the importance of a fair and unbiased arbitration process.
5. ***Avitel Post Studioz Ltd. & Ors. v. HSBC PI Holdings (Mauritius) Ltd. (2021)***: The Supreme Court of India ruled on the application of the anti-arbitration injunction, reinforcing the principle that parties should not resort to parallel proceedings in arbitration.

As the Companies Act, 2013 encourages ADR mechanisms, including arbitration, to resolve disputes, the body of case law in this area continues to grow and adapt. However, Indian law still faces ambiguity regarding arbitrable corporate disputes, particularly those involving shareholders' rights and mismanagement. Courts may interpret arbitral awards differently, leading to inconsistent decisions. The appointment process can be influenced, and the "group of companies" doctrine may be unclear. Timely dispute resolution and procedural fairness remain challenges.

POTENTIAL SOLUTIONS FOR PROMOTING TRANSPARENCY

Limited Transparency Options: One of them could be publishing redacted or anonymized records can provide transparency while protecting parties' identities and another could be providing public summaries of dispute resolution outcomes can enhance transparency without revealing confidential details.

Balancing Confidentiality and Transparency: Parties may agree to disclose certain aspects of the dispute resolution process with appropriate consent and clearly outlining the scope and limits of confidentiality can help manage expectations and promote transparency.

Clear Confidentiality Agreements: Clearly defining the scope and limitations of confidentiality can help manage expectations.

Balancing Interests: Practitioners must balance the interests of the parties involved, ethical considerations, and public interest.

CONCLUSION AND RECOMMENDATIONS

Confidentiality is a crucial element of dispute resolution processes, providing a safe space for parties to negotiate and reach agreements. However, the challenges of transparency must be addressed to ensure fairness, accountability, and the public interest. This paper has explored the complex relationship between confidentiality and transparency in dispute resolution and provided potential solutions for achieving a balance between the two. Some of the recommendations that could help achieve a better footstep in the field of mediation and arbitration could be:

- Encouraging the use of anonymized records and public summaries to enhance transparency.
- Establishing clear guidelines for confidentiality and transparency in dispute resolution processes.

- Promoting education and awareness among practitioners and parties about the importance of balancing confidentiality and transparency.
- Advocating for legal and ethical reforms to support transparency while respecting the privacy of parties involved in dispute resolution.

By addressing the challenges of transparency in dispute resolution, we can create more equitable and accountable processes that benefit all parties involved.

REFERENCES

1. PON STAFF, *What are the Three Basic Types of Dispute Resolution? What to Know About Mediation, Arbitration, and Litigation*, PROGRAM ON NEGOTIATION HARVARD LAW SCHOOL (Dec. 21, 2023).
2. Kaya, S., 2019. Suitability of alternative dispute resolution for shareholders disputes. *Corporate Governance: Search for the Advanced Practices*, p.68.
3. Farrar, J.H., Watson, S. and Boulle, L., 2012. Dispute resolution in family companies. *Canterbury L. Rev.*, 18, p.155.
4. Goldberg, S.B., Sander, F.E., Rogers, N.H. and Cole, S.R., 2020. *Dispute resolution: Negotiation, mediation, arbitration, and other processes*. Aspen Publishing.
5. Alexander, N., 2022. Mediation and appropriate dispute resolution. *Singapore Academy of Law Annual Review of Singapore Cases*, pp.670-709.
6. Rule, C., 2020. Online dispute resolution and the future of justice. *Annual Review of Law and Social Science*, 16, pp.277-292.
7. Bichia, M., 2020. Legal Regime of Confidentiality Protection in the Mediation Process and Its Meaning. *Law & World*, 15, p.188.
8. Laurie K. Dore, Public Courts versus Private Justice: It's Time to Let Some Sun Shine in on Alternative Dispute Resolution, 81 Chi.-Kent L. Rev. 463 (2006).