



# Social Sciences Spectrum

A Double-Blind, Peer-Reviewed, HEC recognized [Y-category](#) Research Journal

E-ISSN: [3006-0427](#) P-ISSN: [3006-0419](#)

Volume 03, Issue 04, 2024

Web link: <https://sss.org.pk/index.php/sss>

## Alternative Dispute Resolution (ADR) in Pakistan: Bridging Gaps to Ensure Justice

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### Article Information

**Received**

September 05, 2024

**Revised**

October 07, 2024

**Published**

October 25, 2024

### Citation (APA):

Farooqi, M. A. & Rizvi, A. (2024). Alternative Dispute Resolution (ADR) in Pakistan: Bridging Gaps to Ensure Justice. *Social Sciences Spectrum*, 3(4), 81-95.

### Abstract

This research article deals with Alternative Dispute Resolution (ADR) and how the Pakistani legal system faces issues as ADR is very crucial for the Pakistani legal system. Like many developing countries, Pakistan also has systemic issues within its conventional judicial system, which delays and renders justice to the parties involved extremely slowly. The torrent of cases flooding the courts and often compounded by procedural labyrinth and resource constraints, makes for long waits for litigants to get their cases decided upon. Thus, many are pushed far away from the hope of justice, and public confidence in the legal system is brought down, so that social discord is prolonged. The requirements and needs of ADR in Pakistan are comprehensively dealt with by this article. It aims to shed light on the mechanisms, benefits, challenges and way forward of the transformative potential of ADR in Pakistani context. This research presents a detailed analysis of ADR's important role in bridging the gaps in the legal system.

**Keywords:** Alternative Dispute Resolution (ADR), Pakistani Legal System, Transformative Potential of ADR; Justice, Conventional Judicial System, Challenges.



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## **Introduction**

ADR provides a compelling, alternative to protracted litigation, by being flexible, speedy, and accessible to disputants. ADR provides a mechanism for parties to resolve disputes through amicable process in the form of negotiation, mediation, arbitration and conciliation without formal court proceedings. Along with this, ADR is a supportive technique of conflict resolution, allowing the disputants themselves to be involved in devising acceptable and mutually reached solutions. As S. Gul (2019) has pointed on the resolution of disputes with the resolution and has emphasized on the timely and safe withdrawal of disputes known that if the disputes are not well handled, they cause havoc and the wrong results. In addition, he has used a lot of time and length discussing the dispute resolution procedures within tribal and indigenous societies.

Alternative Dispute Resolution (ADR) covers several mechanisms designed to facilitate the resolution of disputes outside the traditional courtroom setting. These mechanisms include negotiation, mediation, arbitration, conciliation, and hybrid forms. Each of these mechanisms offers distinct approaches to resolving conflicts in an efficient and collaborative manner. It is tailored to the needs of the parties involved.

Mr. (J) Jillani, TH (n.d.) is of the view that a fair procedural law tries to attain three objectives; truth finding, resolution of disputes without delay and cost-effective process in achieving these. Unfortunately, Pakistani procedural laws failed in attaining all of these objectives. There has been delayed justice. To all this a practical and viable solution is, in the shape of alternative dispute resolution mechanisms.

## **Research Objectives and Scope**

This precise work has exhaustively researched the needs and requirements of Alternative Dispute Resolution (ADR) within the context of Pakistan's legal environment. This study tracks the intricacies of ADR mechanisms and unravels its transformative potential and role in addressing the prevailing challenges in dispensing justice. This research provides insights through a candid examination of its mechanisms, benefits, challenges, as well as strategies for advancement of ADR, situating its complex mosaic of benefits, challenges and the means to extend its reach to a more easily accessible, equitable and expedient system of dispute resolution in Pakistan.

This research makes it clear about how central ADR is to fill the gaps in the legal system and to facilitate the delivery of justice to the masses. It further highlights how ADR can be a hallmark of change by propagating deeper understanding of the variety and characteristics of ADR processes and it can transform the dispute resolution domain in Pakistan. This study provides for a rigorous analysis of its mechanisms including negotiation, mediation, arbitration, and conciliation and hybrid forms to elucidate options for resolving conflict outside conventional courtroom setting.

Additionally, this article examines tangible benefits of ADR, including the possibility to enhance efficiency, empowerment and access to justice. This research shows how ADR may provide a workable alternative to the turgid litigation processes; give disputants a chance to be active in their resolution; and contribute to a culture of cooperation and mutual respect. This study also addresses some of the impediments that stand in the way of the wider use of ADR in Pakistan, including issues such as awareness; the legal frameworks; cultural norms; and capacity building. This research makes a pragmatic and forward-thinking contribution towards tackling these challenges and creating the conditions for ADR to contribute to building a more just, equitable and inclusive society in Pakistan.

## **Structure of the Article**

The article will proceed as follows: -

First, it will detail the ADR, taking some time to discuss all the different methods of solving disputes outside the courtroom.

Secondly, it will talk about the benefits of ADR from the perspective of efficiency, accessibility, and fairness in dispute resolution.

Thirdly it will explore the challenges of having ADR in Pakistan in terms of awareness, legal frameworks, cultural norms and capacity building.

Finally, the article will propose recommendations for the way forward, outlining strategies for promoting the adoption and effective implementation of ADR mechanisms in Pakistan's legal system. By means of this structured approach the article exhaustively delves into the needs and demands of ADR in Pakistan. It provides insights and recommendations for moving towards justice and fairness in dispute resolution.

## **Methodology**

The research is descriptive, analytical and interpretative. The methodology is qualitative and primary and secondary sources are relied upon.

## **Literature Review**

Alternative Dispute Resolution (ADR), refers to many methods of resolving disputes that are not done in a traditional court room litigation process. ADR offers parties reaching an agreement easily and efficiently. Negotiation, mediation, arbitration, conciliation and hybrid forms of these mechanisms address the diverging needs and specialized conditions of disputants and provide a continuum of alternatives for conflict resolution.

The simplest form of ADR is negotiation. It is direct communication between the disputing parties. They bargain, and discuss, ultimately, they come to some mutual agreement on how some interests and some concerns should be accommodated. The decision making in this informal process is also in their hands and is supported by a collaborative environment that assists in preserving relationships.

Mediation involves a neutral third party, the mediator, and intervenes between the parties in order to promote non-adversarial rather than adversarial dialogue. The mediator helps parties identify what the underlying issue is, and what might be a solution, and then reach a voluntary agreement. Mediation is different from arbitration in that a third party does not decide, instead, parties create their solutions and therefore own and are satisfied with the result. In their research Ali, M and Geng, LL, (2019) emphasize on the role of lawyers in the whole mediation process and assert that lawyers are obliged to put in their best efforts while they represent their clients all through the mediation process.

On the other hand, submission of the dispute to one or more arbitrators binds the parties' decision. This formalized process offers institutionalized way of resolving disputes based on a fast and institutionalized less adversarial alternative to litigation. In arbitration parties can choose arbitrators who are qualified on the subject matter. It ensures that decisions are in fact informed and impartial.

Conciliation shares similarities with mediation but entails a more proactive role for the conciliator, who actively proposes solutions and assists parties in resolving. The conciliator

guides parties through the negotiation process, facilitating communication and promoting mutual understanding. This interventionist approach can be efficient in cases where parties cannot settle through mediation alone.

Hybrid forms of ADR combine elements of different mechanisms to tailor the process to the specific needs and complexities of the dispute. These innovative approaches may incorporate aspects of negotiation, mediation, arbitration, or conciliation, depending on the preferences and circumstances of the parties involved. Hybrid approaches offer parties a customized and comprehensive framework for resolving disputes efficiently and collaboratively by combining the strengths of various ADR mechanisms. As per Mr. (J) Jillani, TH (n.d.) various modes of ADR include, case management, judicial settlement, early neutral evaluation, mediation, arbitration and summary judgment. Bilal, M. (2022) has also discussed Med-arb technique of ADR, where the dispute resolution procedure includes the elements of both mediation and arbitration and parties agree to resort to arbitration, in case mediation is failed as a second process. Mehmood, Y. (2022) has discussed ADR in Islamic law and its mechanisms and processes, which include; sulh (negotiation, mediation/ conciliation and compromise of action); tahkim (arbitration); med-arb; mohtasib (ombudsman) and fatawa of mufti (expert determination).

Overall, the versatility and adaptability of ADR mechanisms offer parties a range of options for resolving disputes in a manner that is efficient, collaborative, and conducive to maintaining relationships. Whether through negotiation, mediation, arbitration, conciliation, or hybrid forms, ADR empowers parties to engage constructively in resolving their disputes. It promotes a culture of dialogue, cooperation, and mutual respect.

### **The Emergence of ADR as a Viable Solution**

Mr. (J) Jillani, TH (n.d.) states that growth of commercial litigation and imbalance in judge/case-ratio helped in promotion of less formal dispute resolution mechanisms. Alternative Dispute Resolution (ADR) emerges as a beacon of hope against systemic challenges. It offers a promising solution to enhance the efficiency and effectiveness of dispute resolution in Pakistan. ADR mechanisms present a departure from the traditional adversarial approach of litigation. They provide a flexible, expedient, and accessible alternative to alleviate the burdens of the overburdened legal system. Through facilitated negotiation, mediation, arbitration, or conciliation, ADR empowers parties to actively resolve their disputes in a manner that prioritizes collaboration, constructive dialogue, and the preservation of relationships. Begum, M., Khan, S. A., & Khan, M. Z. (2022) have stressed upon importance of ADR in promoting and sustaining rule of law in a legal system especially in this contemporary world. They have further elaborated different ADR modes in various jurisdictions.

Another advantage of ADR can be mentioned that with the help of ADR different types and contexts of conflicts can be resolved. ADR is presented as a wide range of procedures that might be adjusted to accommodate the needs of the participants and the type of case they are presenting, whether it is a commercial dispute, a family issue, property-related issue, or a community issue. For instance, where reliance on the continuation of the relationship is of critical concern, then mediation or conciliation allow the parties to find better resolution. In contrast, in the cases where enforceable resolution must be reached, arbitration has a more structured procedure, which at the same time allows to select the arbitrators with the background in a particular field.

In the same manner, ADR can be said to create or promote a neutral atmosphere where the parties are willing to, step out of their; closed mind and look for more agreeable ways and means of meeting each other's needs. As opposed to traditional litigation that maintains the tendency to make the result either a win or loss for an individual and/or party and incites hostility between the parties involved, ADR adopts more of a win- win situation where nobody is truly a loser. ADR helps bring about the feeling of power and control whereby all parties have a chance to make choices all leading to the achievement of respecting the other party through gaining control of the process to make specific choices.

Moreover, the availability of ADR solutions argues well for its applicability in meeting the needs of different users who may face some or a lot of difficulties in accessing state-provided legal institutions, such as people from underprivileged backgrounds or those who are at the risk of marginalization. ADR promotes diversity, contributes to autonomy expressing oneself, and aims at achieving the satisfaction of people's claims through convenient, friendly-connected methods focused on negotiation instead of procedures. The democratization of the system of dispute resolution increases people's trust in the justice system, and positively affects social integration and state legal specificity.

Consequently, ADR is a radical approach in addressing cases in Pakistan. It provides a chance to embrace optimization in context of time, convenience and agency. Pakistan can come out of the systemic flaws which are causing a problem to the legal system of the country if they make full use of the ADR mechanisms for engaging a positive dialogue and preparing the foundation for a better future in this regard.

### **Benefits of ADR in Pakistan**

Adopting Alternative Dispute Resolution (ADR) in Pakistan heralds a new era of efficiency, empowerment, and inclusivity within the dispute resolution domain. Many benefits emanate from the integration of ADR practices, extending beyond the confines of the legal system to positively impact disputants and society at large. Fatima, S. (2022) is of the view that ADR, especially arbitration saves time of the parties without indulging into lengthy and difficult intricacies of procedural technicalities and formalities. Mr. (J) Jillani, TH (n.d.) emphasized on the adoption of ADR mechanisms by quoting examples of countries where these mechanisms are either deeply rooted into legal system or have been adopted to resolve issue efficiently and in a cost effective manner like, arbitration (UK); mediation (Australia and China); conciliation (Japan); ADR mechanisms were adopted in India through Legal Services Authorities Act, 1987 (came into effect in 1995) established Lok Adalats; Pakistan and Bangladesh amended CPC by introducing concept of ADR (Section 89). Further, ADR and its mechanisms have been incorporated and adopted in Singapore, Egypt, Jordan and Sri-Lanka. Pakistani traditional court system is facing many issues like, uncalled for delays, accessibility problem for the litigants, trust and transparency issues, technicalities involved and exuberant costs involved. All these can be catered, if ADR is adopted as an alternative to support the traditional disputes resolution in the legal system.

### ***Promotion of Efficiency***

First and foremost, ADR is a quality metric which establishes standards for efficiency of the resolution process itself, thus eliminating the blockages usually encountered in traditional litigation through the use of protracted timeline and considerable expense. ADR provides a fast and effective way for disputants to clear up their differences without having to contend with the

drawn out procedures and delays of a court house. It saves them from wasting energy (and money) on a protracted legal battle which deprives them of control over their own lives.

### ***Empowerment of Disputants***

On top of that, ADR provides disputants unparalleled freedom and discretion to settle. Unlike traditional system, external authorities are not involved in imposing decisions in litigation whereas ADR mechanisms themselves grant individuals involvement to actively work out solutions that are compatible with their interests and priorities. In line with this participatory approach, disputants feel more liable and their creative and innovative solutions are triggered beyond the bounds of conventional legal frameworks.

### ***Enhanced Access to Justice***

Additionally, ADR is crucial for democratizing access to justice and particularly important for unrepresented communities and deprived groups. The purpose of ADR is to make sure people from different socio-economic background can seek redress of their grievances without the stiff hurdle of systemic barriers and discrimination. Inclusivity reinforces the fair and equity principles that underpin the legal system and maintain its legitimacy by assuring that justice is truly available to all.

### ***Preservation of Relationships and Social Cohesion***

Moreover, ADR fosters the nurturing of communal amicable resolutions so that relationships and social cohesion can be preserved in communities. Anticipation of adversarial litigation can make relationships worse and insult or injury is common. In contrast, ADR fosters communication for constructive dialogue and collaborative problem solving. The ADR mechanisms preserve familial, commercial and communal relationships by giving high priority to communication, understanding and compromise. The totality of these mechanisms ensures overall harmony and well-being of the society.

The adoption of ADR in Pakistan represents a radical break from the old and humble, to the new in terms of a more humane, efficient, and inclusive dispute resolution system. Utilized properly, manifold benefits from ADR offer Pakistan a means to alleviate the burdens already on its system of law, thus building a culture, rooted in justice, fairness, and social cohesion, that both enriches the fabric of society and reconstitutes the bonds of community.

### ***Challenges in Pakistan's Legal System***

The legal system in Pakistan faces many problems that severely inconvenience effective and timely resolution of disputes. They represent everything unprincipled, unjust and unfair. Staggering backlog of cases is foremost among these challenges as it sweeps the judiciary in a flood of litigation. This backlog puts this already strained resource of the already limited courts, delays the resolution process for litigants to endure periods of uncertainty and frustration for longer. These resultant delays frustrate the speed to get justice, add to the social travails, and reduce public confidence in the legal system. These problems over a period of time reduce litigants' trust to the extent of attributing it to the system. Abbas, R et al (2002) on the issues regarding settlement of CPEC related disputes between Pakistan and China suggest three ways to be done by creating ADR courts in China, Pakistan, and the joint arbitration centers as well as, mediation centers for dispute resolution.

### ***Backlog of Cases:***

A staggering backlog of cases is one of the chief problems that beset Pakistan's legal system. This backlog soaks the judiciary in an excessive amount of litigation, which begins to overtax already stressed resources that had reached their breaking point. As cases pile up, those who have been caught in court drag fights find the resolution process greatly protracted and get to live in uncertainty and frustration for protracted period. Consequently, the swift delivery of justice becomes a distant prospect. It exacerbates social tensions and erodes public confidence in the legal system. It is alarming that more than 50000 cases are pending in Supreme Court of Pakistan and what to talk of pendency in lower courts and high courts. Bhatti, M.U., and Rizwan, M.S. (2023) have reported that over two million cases are pending in all courts of Pakistan, which shows that the judicial system is not properly functioning and this aspect directly impacts social governance. Rahman, S.U., Tanveer, M.S., and Hilal, A. (2022) are of the view that such uncalled-for delays hamper the economic growth of the society as the foreign investment is deterred and foreign economic relations and multinational corporations avoid investing in the country due to their lack of trust on the slow and delayed resolution of cases.

### ***Procedural Complexities:***

Besides backlog, there are process complexity issues that are unique to Pakistani legal endeavors. This web of legalism makes it almost impossible for the litigants to understand the procedures and eventually hinders their access to justice. It intensifies current challenges and disproportionately harms adversely affected demographics – especially vulnerable populations and those with lower socio-economic status. It makes them stand vulnerable to exploitation and injustice most of the time. Also, lack of enough legal aid services complicates the lives of these special people further affects their lives. This way it limits their chances to maneuver themselves within the legal system appropriately.

### ***Lack of Resources:***

Unfortunately, Pakistan's legal system suffers from a major problem practically across the board: lack of resources; the courts themselves are poorly equipped and staffed. The lack of these materials only worsens the problems present in the system and keeps justice and equity marginalized. The insufficient development of the legal infrastructure and human resources fail to address the contingent's concerns and contribute to the lack of timely courts' efficiency and the general effectiveness of the legal system.

### ***Pressing Need for Innovation:***

On this account, it is high time that various strategies are instituted to address these challenges in the context of legal framework in Pakistan. Ostensibly, these approaches need to provide solutions to problems that had led to backlogs, procedural, and inadequate resources to resolve disputes fast and fairly to all members of the society. It is therefore within the grasps of this political and legal system in Pakistan to accept and use innovations as a way of leaning towards what will build a legal mechanism that will ensure justice for its citizens.

The problems currently existing in the legal framework of Pakistan are complex and by no means minor. These problems include backlogs to procedural issues and lack of resources among others. Solving these problems calls for collective and composite efforts in the enhancement of practices that ensure novelty, responsiveness and equity in the delivery of legal services. Pakistan as a country can leg it out for a legal program that will suit the population and uphold

justice and equity to all the people by addressing these problems through incorporating the ADR procedures as an aid to the conventional legal structure.

### **Hurdles in Implementing ADR in Pakistan**

This paper identifies several challenges that preclude the implementation of ADR in Pakistan, and thus, affect the efficiency of its functioning.

Firstly, this tends to result in the underutilization of such processes due to lack of public recognition of the availability of various ADR mechanisms. Even the legal professionals such as lawyers and judges, require further training and knowledge in the use of ADR, which escalates into its limited utilization. Further, a much broader awareness of ADR is required in Pakistan by the policymakers to enhance the legislation and policies facilitating its application. Furthermore, ADR framework of Pakistan is recombinant and incoherent, the situation that hinders it and leads to inconsistencies and uncertainties. Secondly, lack of legislation must have direction on issues such as implementation of ADR results that erode public confidence. Thirdly, cultural and societal values in regard to dispute resolution remain a major hindrance to ADR; especially for rural areas where traditional approaches in dispute resolution cut across. These findings reveal that cultural beliefs and perceptions of ADR as a novel approach are other causes for its reluctance and application. Furthermore, providing for the developing of ADR practitioners' and specialist' skills contributes to a more efficient and ethical solution of ADR. Lastly, since these officials are not permanent servants of the government, extensive programs are needed to familiarize mediators, arbitrators and conciliators with this practice. Furthermore, identifying guidelines for ethical conduct within the ADR practitioners' professionalism framework further needs to be put into practice. Now, sustained combined efforts from governmental and legal entities, civil society, and international companions are needed to solve these problems. Therefore, there is a need for a continuous campaign on the importance of ADR, modifications of the current laws, overcoming cultural resistance, as well as increasing the requisite capacity to make Pakistan's dispute resolution system efficient in future.

#### *1. Lack of Awareness and Understanding*

*General Public:* Maximum individuals in Pakistan need to be made aware of the existence and benefits of ADR mechanisms.

*Legal Practitioners:* Lawyers and judges may need more training and knowledge about ADR, as lack of training is leading to underutilization and delays.

*Policymakers:* Limited understanding of ADR among policymakers may hinder the development of supportive legislation and policies.

#### *2. Fragmented Legal Framework*

*Inadequate Legislation:* Pakistan's legal framework for ADR is fragmented and lacks coherence, resulting in inconsistencies and uncertainties.

*Enforcement Issues:* Lack of clarity in legal provisions regarding the enforcement of ADR outcomes undermines confidence in the process.

#### *3. Cultural and Societal Norms*

*Rural Communities:* Traditional dispute resolution mechanisms, rooted in cultural and societal norms, may be preferred over formal ADR processes in rural areas.



*Stigma:* There may be a stigma associated with ADR, particularly among specific segments of society, deterring its acceptance and utilization.

#### *4. Capacity Building and Training*

*Professional Development:* There is a need for comprehensive training programs to build the capacity of ADR professionals, including mediators, arbitrators, and conciliators.

*Standards and Ethics:* Establishing clear standards and ethical guidelines for ADR practitioners is essential to ensure the integrity and effectiveness of the process.

Hameed, D.U., and Khan, N.A. (2020) have discussed various deficiencies in the Pakistani legal structure with relation to ADR related laws and have provided a suggestion that community participation/ mediation should be tried out in Pakistan rather than relying on court dominated procedures. To resolve these challenges, different stakeholders are expected to come in handy pulling efforts from governmental, legal institutions, CSOs and international partners. Pakistan needs to enhance awareness, improve legal provisions, and reduce cultural resistance and capacity building, to realize the potential of ADR for a fully functional accessible and effective system. Various loopholes have also been discussed by other authors like Iftikhar, Khan and Wattoo (2022), as they have indicated following loopholes associated with ADR legislation in Pakistan as: The consent of the parties is mandatory to employ ADR legislation; the steps engaged are mostly judicial and ADR is usually enforced through courts; there are execution challenges of such decisions; and since parties are at liberty to withdraw at any time during the process, this question marks its efficacy. However, according to the opinion stated by Shabbir, D.T., and Nadeemullah, D.M. (2023) ADR may not be capable to deal with multiparty and intricate legal and factually complex cases. Ethical, cultural, confidentiality and privacy assurance in the processes are also a concern to them.

#### **Laws dealing with ADR in Pakistan**

There has been an effort to include different aspects of ADR into Pakistani laws. As per Iftikhar, R., Khan, D.W., and Wattoo, F. (2022) indirectly the Constitution of Pakistan 1973 paves way for the ADR under article 2-A, where State is bound to provide social structure where a Muslim can lead life according to Islamic social structure and norms and in Islam there is concept of sulah and tahkim, which opens the door for ADR. Further Article 37-d of the Constitution also talks of inexpensive and expeditious justice. Khan, H., Afzal, U., and Iqbal, S. (2022) have provided a critical analysis of few of the arbitration laws of Pakistan, however, the writers are of the view that ADR mechanisms are compatible with Pakistani legal system and can help in reducing the burden on the traditional courts. Whereas, a comprehensive analysis of Pakistani ADR laws and international laws applicable in the country has been provided by Won, S.K. (2013). A gist of few of those enactments which deal with different aspects of ADR, is provided as under: -

1. Pre-trial and post-trial conciliation efforts in family cases (Family Court Act 1964).
2. Arbitration Act 1940 deals primarily with arbitration processes.
3. Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Act 2011
4. Section 89-A in Civil Procedure Code, 1908 (CPC) was introduced through an amendment titled, Code of Civil Procedure (Amendment) Ordinance, 2022, which also inserted a new Rule after Rule 1 of Order X.

5. New Chapter XVII was added into Customs Rules 2001.
6. Section 47-A inserted on ADR along-with Chapter X in Sales Tax Act, 1990.
7. Section 95-c of Customs Act deals with ADR sort of mechanism in relation to Central Board of Revenue, although with few limitations and issues.
8. The Small Claims and Minor Offences Courts Ordinance, 2001 also talks of each court having to maintain a panel of arbitrators, mediators, and conciliators for ADR purposes.
9. The Punjab Consumers Protection Act, 2004 also talks of mandatory provisions for the use of ADR.
10. International Arbitration Act 2017 also deals with the framework of international commercial arbitration in Pakistan.
11. For case management and civil trial in Punjab, amendments were made in the 1st Schedule of CPC, 1908, further the Code of Civil Procedure (Punjab Amendment) Act 2018 and the Code of Civil Procedure (Punjab Amendment) Ordinance 2020 were introduced, to make the Section 89-A operationalized to avoid delay in case disposal along-with other objects and scope.
12. The Punjab ADR Act 2019 was introduced to provide a system of ADR of civil and criminal disputes and ensure inexpensive and expeditious justice. The Act also emphasized on establishing ADR centers.
13. In 2020, Punjab ADR Rules were notified.
14. The Code of Civil Procedure (Sindh Amendment) Act 2018 was also introduced.
15. In 2020, KPK ADR Act was introduced.
16. For Islamabad territory, in 2017 ADR Act was passed.
17. Chapter XII of Panchayat and Musalihat Anjuman of Punjab Local Government Act 2013 (XVIII of 2013) also deals with same.
18. The Punjab Local Government Musalihat Ahjuman (Constitution and Function) Rules 2006 are also relevant in this regard.
19. Alongside formal legal system, jirgas, panchayats and other customary dispute resolution mechanisms, as informal system, also play a vital role in this regard.

### **The Way Forward**

The accomplishment of the challenges involved while implementing ADR in Pakistan calls for the support of different actors, both at the governmental agency level, judicial, legal practitioners, CSOs, and academic community levels. It means that there is necessity to address the problems and multifaceted processes that hinder the usage of ADR mechanisms and their efficiency in different regions of the country.

### ***Legislative Reforms:***

Firstly, the legislative change is necessary to construct a solid legal foundation for improving authorization for ADR and offering specific measures for the implementation and accreditation of ADR procedures in the official legal system. This means supplementing current legislation and standards in order to fill any loopholes and develop a proper system in the use of ADR mechanisms. Pakistan can affirm and legalize the process for large scale use by adopting

extensive laws for ADR that can explain the rights and responsibilities of both parties and formal process for the implementation of this procedure. As per the studies of Awais, H., and Munir, M.A. (2018) it has been stated that mediation centers in Punjab have played a progressive role in this context. Further, stress has been laid on the role of judges, lawyers and academicians to enhance and reform the ADR processes.

### ***Awareness and Capacity Building:***

At the same time, collective emphasis towards increasing population and legal personnel's approximately and improving understanding about the effectiveness and processes of ADR. By providing awareness, and showing the assurance of ADR methods to the public, legal representatives, and participants, the stakeholders can be guided through training to accept the methods of ADR as a valid resolution to solve disputes alongside litigation processes. It is proposed that lawyers, judges and other employees of courts and other legal entities require special training in the use of ADR technologies and procedures.

### ***Investment in Infrastructure and Technology:***

Moreover, there must be improvements in the physical aspects of providing ADR by improving infrastructures and technologies in order to reduce physical challenges and increase access to ADR service for people who live in rural and distant areas. Having well equipped ADR centers, and embracing Information Technology, the delivery of equitable, efficient and responsive dispute resolution services can be extended across the country. It should be noted that both the government of Pakistan and other stakeholders of this country need to invest in technology solutions like online dispute resolution platforms to increase the accessibility of ADR services and administrative efficiency in the resolution of disputes. In this regard, Ullah, I. and Hussain, S. (2023) have analyzed the vires of land record information through digitalization regarding the dispute resolution.

### ***Collaboration between Formal and Informal Justice Systems:***

Lastly, fostering collaboration between formal and informal justice systems is essential to harness the strengths of both approaches and ensure holistic access to justice for all segments of society. Pakistan can bridge gaps in its legal system and promote a culture of inclusivity and empowerment by recognizing and integrating traditional dispute resolution practices where appropriate while upholding the principles of fairness and transparency. This may involve establishing mechanisms for recognizing and enforcing agreements reached through informal dispute-resolution processes, enhancing access to justice and promoting community cohesion. Khan, F., and Nisar, M. (2022) have emphasized on the dispute resolution councils (DRC) in order to reach the resolution swiftly and without any hassle, as the diversified composition of such council helps in reaching decisions as per the cultural, societal and ethical norms and good thing is people can challenge their decisions, when and where required. The authors have elaborated at length the customary ADR system and latest system of ADR in the context of dispute resolution councils.

It is needless to reiterate here that to bear full fruits in this regard, there is a dire need to introduce elective subjects on ADR at LLB and LLM levels in all the institutions imparting legal education; short courses, trainings, and diplomas for professional lawyers and in-service members of the subordinate judiciary be also introduced by Bar Councils, Judicial Academies and Universities having Law Departments; a comprehensive instructional code must be prepared for judges and lawyers; and relevant bar councils should take a lead in this regard by sensitizing the lawyers' community and address their concerns, if any, at the institutional level. Judges,

S.M., Suleman, S., and Shahid, A. (2024) have also emphasized creating online resources and platforms for the effective understanding of ADR processes and concepts via videos, online lectures, tools, and interactive platforms. Even Kaya, S., and Khan, M.D. (2022) have discussed the pros and cons of Online Dispute Resolution in Pakistan with few technological, cultural, and regulatory challenges.

Therefore, it can be stated that the professionalization of ADR in Pakistan requires a comprehensive strategy to tackle the hurdles related to its implementation on a legislative, educational, infrastructural and cooperative level. Since, ADR can be a solution mechanism in all areas, therefore it is an extraordinary opportunity to adopt ADR by removing obstacles and create a fairer, more efficient, and less expensive system only through the constant participation of stakeholders. In that way, legislative reforms, increased awareness and capacity, development of physical and human resources for practical infrastructure and technology, and linkages between the formal and the informal justice sectors in Pakistan can create a framework where ADR can be effectively applied and become easily available to the general public. A., Baimoldayeva and M Ziauddin (2022) put more emphasis on the fact that there is a need to introduce an Asian model of conflict solving which should be aligned with the Asian values and perspectives spurred by the fact that adopting the Western approaches would not be fully effective.

### **Conclusion**

ADR has the future to transform the conflict resolution environment of Pakistan and provides hope in the current state of the judicial system. ADR offers hope in delivering timely and efficient means of resolving disputes, resolving the justice deficit, and fostering unity and order by preventing most dispute resolution processes from clogging up our courtrooms. Thus, it can be advocated that through efficient, empowered, and inclusive ADR, favorable societal change in Pakistan may be further strengthened.

Central to the transformational intent of ADR is the promotion of efficiency. ADR mechanisms are preferred because they provide an expeditious, economical, and less invasive option for dispute resolution than do the formal court systems in that they allow the simplification and reduction of formalities in the resolution processes. They also lighten the burden of the congested judicial system restore public confidence in the administration of justice and enhance the rule of law index.

Furthermore, it is argued that ADR allows for the disputants to comparatively have more control on the resolution process and it also promotes the use of more cooperation among the disputants. ADR also contrasts with a top-down process typical of the courtroom where individuals' interests and priorities are met by an opposing force of the law. It also fosters an oath of ownership which creates mutually beneficial relationships and also fosters the preservation of unity in communities.

Nevertheless, there is a lot of unexplored potential for leveraging ADR effectively in Pakistan and the process of getting the most out of the pool requires tackling numerous challenges and building the conditions that will support the practical use of ADR in the Country. Some of the main problems are the existing low level of awareness of ADR, the need in the systemic up-gradation of the legislation, concerns of culture and values, as well as the need for advances in human resources and facilities. By working together, the government and judiciary, legal professionals, NGOs, civil society organizations (CSOs) and academia in Pakistan can overcome these challenges and unlock the genuine potential of ADR to create a more civil, harmonious and

fair society. As per the study done by Shahzad, K., and Ali, A. (2023), it is important to commend that the existing literature has laid out the defined scope of different ADR mechanisms in different types of laws rather than providing a generalized notion about ADR.

In short, ADR is perhaps one of the more significant shifts in the process of resolving disputes since many of the principles focus not only on efficiency in solution finding, but also on empowering and involving as many parties as is possible. Therefore, there is a great chance for the change through ADR in Pakistan, the Country is capable to overcome the constraints of the conventional judicial system and start a new era. Thus, the future of ADR is bright if the Pakistani judiciary continues to adopt ADR and overcome the barriers which obstruct the implementation of this method. A future in which justice is part of people's basic human rights instead of a luxury going only to the privileged in the society. Mainly, a system where people can seek justice immediately, effectively, and amicably and gain confidence in the legal process and expect positive societal change.

This crafted shifts towards the blueprint of an envisioned future is anchored on ADR when it promotes effective communication, ownership of the process by the parties, and the effort towards embracing and respecting diversity. With the help of ADR Pakistan will be able to change the approach to conflict solving and overcome the old-fashioned way of litigating and start to improve the situation in the context of understanding all the needs and wants of the all parties involved. This paper highlighted that as Pakistan continues along the path of development to progress in line with that of the developed countries, the adoption of ADR as a system forms part of the positive progression. In this regard, by implementing principles of efficiency, empowerment and inclusion which are in essence of ADR Pakistan can overcome the current deficiencies of legal system and start building a society of justice, equality and prosperity for the future generations. Joseph Grynbaum once said, "An ounce of mediation is worth a pound of arbitration and a ton of litigation".

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