



## THE CRITICAL ANALYSIS OF PROCEDURAL ASPECTS IN APPLICABILITY OF ALTERNATE DISPUTE RESOLUTION ACT-2017

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### Abstract

*The duty of state is to provide the low-cost and speedy justice and through the Alternate Dispute Resolution system, the settlement of disputes can be done expeditiously without resort to the formal litigation in Pakistan. As many of us does not want to indulge in formal litigation as it is too expensive, extra lengthy, having potential of being public (as no one can stop public to see the proceedings of the court), hence, confidentiality is on stake. Due to these reasons and some others (Pakistan being on 130<sup>th</sup> out of 139<sup>th</sup> in the list of states having bad judicial system and implantation of the rule of law), people have started resolving their disputes through informal means such as mediation, negation and arbitration etc. The research is aimed that what will be the future of Alternate Dispute Resolution Act 2017 in Pakistan and How it will be effective for speedy and expeditious justice for people who are not satisfied with the litigation system.*



## Research/Legal Questions

1. Whether Bar will support the ADR system and Mechanism as provided in ADR Act 2017?
2. Whether ADR Act 2017 follows all the necessary requirement of any formal proceedings for dispute resolution?
3. How much role is given to individual advocates in the ADR system as adopted by ADR Act 2017?
4. Whether ADR Act 2017 provides sustainable economic model as an alternate to litigation or court proceedings.
5. Whether the ADR Act 2017 is comprehensive and containing all issues related with ADR mechanism or not?
6. How much the scope of ADR is adopted in ADR Act 2017?
7. What are the critical issues which are not discussed and solved in ADR Act 2017 which can be problematic at the time of enforceability of ADR awards by the Court?
8. What measures should be taken for adoption of ADR Act 2017 in true letter and spirit?

## Objectives

1. To critically evaluate ADR Act 2017.
2. To determine the role of Bench, Bar, professionals and layman in the ADR Act 2017.
3. To highlight the different unsolved issues in the ADR Act 2017.
4. To offer ideas and proposals for making Pakistan's ADR system workable and practical.

## Methodology of Research

This research adopts doctrinal descriptive framework which by way of analyzing the existing legal statutory provisions on ADR in Pakistan and cases by applying the reasoning power critique the legal development on this subject. This paper adapts a qualitative or library-based research approach consequently relying on secondary data to create a better framework for improvement in our ADR laws along with strong strategy to build the capacity of Pakistan's legal ADR regime to effectively pursue cases and obtain just and speedy verdicts.

## Introduction:

The legal maxim "*Justice Delayed Is Justice Denied*" is true in both civil and criminal proceedings. There have been ongoing efforts to develop methods for the swift administration of justice in every progressive society (Alternative Dispute Resolution in Pakistan - GlobalLex).



In Pakistan, the civil and criminal judicial systems are currently dealing with substantial delays that are out of the ordinary. The settlement of civil and criminal matters is notoriously and repeatedly delayed. It is a well-known and historic phenomenon that is not specific to Pakistan. Every judicial system's core duty is to carefully avoid doing anyone an injustice during a civil case or a criminal inquiry (Reuben,1997). As the Holy Quran commands Muslims to abstain from injustice, oppression, and suppression, such generally acknowledged and time-honored norms are in line with Islamic tenets.

In our nation, delays in the resolution of civil and criminal proceedings are a given. Ordinarily, a civil lawsuit will drag on for up to twenty years, and after the trial is over, it may take another half-decade to ensure that the ruling is carried out. Such an occurrence erodes public confidence in the execution of justice (Bevan et.al.,1992). Along with aggravating the litigant public, delays in civil dispute resolution also impede the socioeconomic advancement of society. It has an adverse effect on our trade relationships with foreign governments and multinational corporations and serves as a deterrent to foreign investment in our economy (Edward et.al.,1986).

Since the inception of Pakistan's economic liberalization policies and the adoption of global legal reforms, legal thought leaders have concluded that the application of strict ADR methods to commercial and civil litigation is a definitive solution to the serious problem of backlogs in cases in Pakistan's civil courts.

A worrisome situation has arisen due to the fact that justice delayed by a dispute resolution process in court. Our common law-based civil justice system has a strong emphasis on procedural justice, making it a dated system in every way. The public who is suing is suffering even more as a result of the chaos our legal system has caused due to backlog, excessive delay, and corruption. To deal with this scenario, it is essential that a new system be developed. It is important to keep in mind that the courts' primary obligations are to expedite the conclusion of trials and to ensure that plaintiffs receive justice.

Though traditional litigation can occasionally efficiently serve the interests of parties, many instances have needs that can be better fulfilled by alternate procedures. Each non-binding alternative dispute resolution (ADR) option in the many legal systems across the world offers a range of services, allowing parties to select the one that most closely reflects the particulars of their case.

**ADR is theoretically a Good Concept, but its Practicality in Feudal Culture is highly Questionable**



ADR is a good idea in theory, but it's highly questionable whether it would work in a feudal-minded society that is neither established nor structured. Interestingly, the architecture of the current ADR program has significantly changed from that discussed at a national judicial conference a few years ago, when it was proposed that courts should always ask the parties to try to settle their disputes through ADR. The threat it posed to senior attorneys may have been the reason why that scheme failed ("Reforming the Alternative Mechanisms of Dispute Resolution in Pakistan by Ahsan Iqbal, 2016"). The careless handling of the current law has already attracted criticism. Only 23 members were present when the law was adopted by the National Assembly, which was below the necessary quorum, according to media reports. Looking at the standing committee's report makes it more obvious that MPs aren't taking their duties seriously. The names of the 21 members of the standing committee are provided, but no information is provided regarding how many of them took part in the review of the proposal. There were reportedly two meetings of the committee (Jan. 9 and 18). (It would be beneficial if going forward, all attendees' identities will also be given in addition to the names of the committee members). In any case, the committee changed the bill just three times. Since "the parties" was changed to "any of the parties" in one of the changes, a subject might now be referred to ADR even if the parties were not in agreement to do so. The remaining two changes replaced every instance of "panchayat" with "jirga," For instance, the original language of section 14(1) read, "Where a panchayat system has been created pursuant to any law, it shall assist resolution of civil disputes and compounding of offences as provided for in this act. The clause was changed to read, "Where a panchayat or jirga system." The usage of the term "must" in this paragraph means that wherever the system of panchayat or jirga has been formed, all cases under ADR will be directed to them. It appears that acknowledging the jirga as the primary forum was what mattered most.

If lower civil courts are referred to as jirgas and the high courts are elevated to the status of grand jirgas and continue to interpret the law as it has been done in the past, nothing will come to an end. But since the jirga using the ADR technique won't be constrained by what are still referred to as "normal norms," the sky would definitely shake if the law is replaced with the whims of individuals with out-of-date viewpoints.

It should be highlighted that the Alternate Dispute Resolution Act will take precedence over all other legislation. Oaths Act 1873, Limitations Act 1808, and Arbitration Act 1940 (with a caveat) will apply to ADR issues, however the Code of Civil Procedure (CPC) 1908, the Qanun-i-Shahadat (QSO) 1984, and the Code of Criminal Procedure (Cr.PC) 1898 (apart from Sec. 345 - compounding of offences) will not. In addition, no appeals or revisions will be allowed for ADR rulings or decrees. In the case titled as, *Said-ur-Rehman v. Raj Muhammad*, court held that;

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*Civil laws dealt with properties (either moveable or immovable) and rights in which, at each and every stage, parties could enter into a compromise/settlement and Courts had vast powers to decide the lis on the basis of settlement, so arrived between the parties. Only exception to a compromise could be that the same might not be made with ill-will or connivance between the parties, so that a third party should not suffer or his right might not be adversely affected. Compromise was the best solution for removal of differences and it was always appreciated by the Courts of law, for which certain specific provisions were also inserted in the Civil Procedure Code, 1908, such as Alternate Dispute Resolution (ADR), conferencing and reconciliation; and that was the reason the provisions of O.XII, R.6, C.P.C, were made part of the statute.*

***"According to the Law and Justice Commission of Pakistan, there are 31,018 cases are lying unresolved with the district judiciary of Islamabad"***

The reality that Pakistani society is experiencing severe regression cannot be denied. In favor of the tribal right on the one hand and the priests of religion on the other, it is progressively losing ground. The panels of neutrals and the jirgas in this case cannot help but be dominated by tribal/religious orthodoxy, from which women, minorities, tenants, labor, and the socially and economically disadvantaged cannot expect good. By caving in to the extreme right, tribalism, and religious militancy, the government risked taking a significant step backward.

### **Ratification of International Conventions**

When Pakistan ratified the 1958 New York Convention on Recognition and Enforcement of Foreign Awards, it was added to the list of the Convention's original signatories. When it came to international arbitration, Pakistan was one of the top countries ("Comparative International Commercial Arbitration (Book, 2003) [WorldCat.Org]")

Pakistan's ratification of the New York Convention was a step in the right direction toward encouraging the expansion of international arbitration, but it wasn't until 2005 that Pakistan actually put the convention into practice with the passage of the Recognition and Enforcement (Arbitration Agreements and Foreign Arbitral Awards) Ordinance, 2005. Also first issued in 2006 was the temporary legislation known as the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (hereafter referred to as the "ICSID Convention"). But in 2011, the New York Convention and the ICSID Convention were both implemented by Acts of the Parliament (Hassan, 2002).



## Judicial Settlement

The parties' understanding of the merits of their different claims is one of the main goals of ADR. By referring the case to a judge who is not assigned the case for trial, the parties can use the judicial settlement option to help settle their dispute. This technique has the advantage of allowing the referee to assess the case and provide his opinion in confidence. The Referee Judge has a settlement meeting after referring the case for judicial settlement. The Settlement Judge assists the parties in reaching a settlement by serving as a mediator throughout the course of the case. He holds joint or separate discussions, provides an unbiased appraisal of the situation, and simultaneously presents them with a range of solutions (Rovine, A. W. 2012). He has to keep everything completely discreet when he schedules a separate meeting with a party. When the dispute is completely resolved, both parties sign an agreement, which concludes the matter. The trial court is then notified of the settlement. But if the parties are unable to come to an agreement, the case is sent to the trial court for a merits trial. This method is primarily employed in business agreements where parties value their time and wish to preserve their business relationships (Awais, H., & Munir, M. A. 2018).

## Role of ADR in Judicial Procedure

The various ADR processes offer different kinds of benefits, and each ADR method offers at least some of the following advantages over conventional litigation or direct settlement negotiations. ADR can be beneficial in most circumstances in some way. In the case *2021 CLD 885 Karachi-High-Court-Sindh* tilted as *Focus Entertainment Vs Television Media Network (Pvt.) Ltd.* Plaintiff filed suit for declaration, permanent injunction, infringement of copyright, delivering up, rendition of accounts and damages. Along with the suit, plaintiff filed an application under S. 89-A, C.P.C. praying that the dispute between the parties be referred to mediation in terms of the agreement executed between the parties. Said application was disposed of and a Mediator was appointed by the Court with consent of the parties. Petition under O. X, R. 1B(vi), C.P.C. was submitted by the Mediator wherein he had stated that the parties executed a settlement agreement, original whereof was attached to the petition. At the foot of the settlement agreement, there was a certificate by the Mediator certifying that the parties had entered into the said agreement voluntarily. Mediator as well as the counsel for the parties requested that as all the disputes had been resolved by the parties through the said agreement, present suit be decreed in terms thereof. Suit was decreed in terms of the settlement agreement arrived at by the parties.



## **Reference to ADR**

Every civil matter listed in the schedule must be referred to alternative dispute resolution (ADR) by the court on 1<sup>st</sup> day of hearing, following all parties appearance, unless one or more of the parties to the dispute refuses to do so, the court is convinced—after considering the facts and circumstances of the case—that there is no chance that the dispute can be resolved through ADR, or there is a complex issue of law or fact at stake. The Court may define problems prior to the referral to ADR in order to aid in the resolution of the dispute; the neutral may designate new topics as necessary throughout the ADR hearing with the parties' consent. Upon request from any party to the dispute before it and with the consent of all parties, the Court may, at any stage of the proceedings, send any civil problem specified in the schedule to ADR. This section does not apply to actions brought by the defendant or respondent against ex-parties. Unless the court orders otherwise while taking into consideration the case's current stage of litigation or any agreements between the parties, even if such procedures are dismissed, the case will not be submitted to ADR (Alternate Dispute Resolution Act 2017, s 3).

## **Panel of Neutrals**

After consulting with the High Court, the government will announce in the official gazette a panel of neutrals for each district made up of attorneys with at least seven years of legal experience, retired judges, retired civil employees, ulema, jurists, technocrats, experts, and other people of repute and integrity with the qualifications and experience that may be required, with fair consideration given to women with the requisite training and experience. The Government is able to set up Neutrals' training programs as needed. The Government may alter the panel in the same manner as stated by including or deleting entries or by adding new entries (Alternate Dispute Resolution Act 2017, s 4).

## **Appointment of Neutrals and Referral to ADR Center**

If the parties cannot agree with neutral, the Court will, at its discretion, appoint one. If the parties cannot agree on any other person, the Court will, at its discretion, refer the issue to an ADR center. Additionally, the Neutral should preferably be a woman in cases when one or both parties are female. If the case is sent to an ADR Center and one or both parties are women, the case should preferably be handled by a team that includes a woman. The Court may, with the parties' approval, refer the matter to the ADR Center. The parties must attend before the impartial arbitrator or ADR Centre on the date and time the court specifies after sending the matter for ADR (Alternate Dispute Resolution Act 2017, s 5).



The parties submit an application to ADR Centre or may submit it in court for their disagreement to be resolved through ADR if they agree that ADR should be used to begin court proceedings. Upon receiving an application from the Court or ADR Center, the matter will be forwarded to a Neutral or another person as the parties may determine.

### **ADR Proceedings and settlement of Award**

The dispute's parties must participate in the ADR process either directly or through officially accredited representatives or attorneys. The matter must be resolved by a court or ADR Centre's appointed Neutral within 30 days of referral for mediation, conciliation, or another form of ADR. If there is good reason, the Court or the ADR Centre, as applicable, may grant the Neutral's request for a 15-day extension. The arbitrator must complete the arbitration process if the issue is referred to him within 60 days, though the Court may, for good cause, grant a 30-day extension at the arbitrator's request (Alternate Dispute Resolution Act 2017, s 9).

The directives provided by the Court from time to time about the conduct of the ADR are obligatory on both the parties and the neutral. Any party that refuses to appear in ADR proceedings, requests an adjournment, misses a deadline set by the neutral or the Court, or takes any other action that causes the ADR procedures to be delayed is responsible for the opposing party's costs, as assessed by the neutral (Alternate Dispute Resolution Act 2017, s 10).

### **Failure of ADR and ADR Center**

The court will then resume the case from the point where it was referred for ADR if the neutral's attempts to mediate a settlement between the parties are unsuccessful or do not result in an award (Alternate Dispute Resolution Act 2017, s 6).

No legal actions may be started by either party thereafter without first informing the court of the ADR center's failure to achieve a settlement or provide an award if the parties directly approached one before starting the court process (Alternate Dispute Resolution Act 2017, s 11-12).

### **Execution of an order or a decree**

When a Court issues an order or decree following ADR, it must be carried out in accordance with the established protocol; if none is set down in this Act, the procedure



outlined in the applicable law must be followed (Alternate Dispute Resolution Act 2017, s 13).

### **ADR in compoundable offences**

When the court takes cognizance of a compoundable offence as specified in section 345 of the CrPC1898 (Act V of 1898) or under any other law currently in force, a neutral or another person designated by the parties may be appointed by the court to compound the offence (Alternate Dispute Resolution Act 2017, s 14).

The Court may not submit a case for an offence to be compounded without the consent of the parties. The neutral appointment shall use every reasonable effort to complete the compounding of the offence within 30 days. The offence is compounded, the neutral shall deliver a report to the court in this regard, fully witnessed and signed by him and by the parties entitled to compound the offence under any applicable law, and the court shall issue an order and the accused shall be released. In the event that the neutral is unable to compound the offence, the Court will resume the case from the time it was referred with the neutral.

### **Utilization of Services of an Evaluator**

The Court or the neutral of the ADR Center may use the services of an evaluator to address any financial or other concerns pertaining to any proceeding before it or him. The Court Evaluator shall provide any support the Court, the Neutral, or the ADR Center may request. The evaluation procedure is over when the evaluator submits a report to the court, neutral third party, or ADR Centre, as applicable. The costs of the evaluation and the evaluator's fee will be covered by the parties, as the Court may rule (Alternate Dispute Resolution Act 2017, s 16).

### **Penal Costs**

Any person who intentionally violates any provision of this Act, rules, or any order of the Court that he is required to follow would be subject to punitive costs that might reach 100,000 million rupees in addition to any other costs or penalties that he may be subject to under the applicable legislation. The parties must split the costs and fees associated with the ADR procedure; if they are unable to come to an agreement, the Court will decide what is reasonable (Alternate Dispute Resolution Act 2017, s 17).



## **Appeal and Revision Barred**

The final settlement, award, or agreement between the parties, as the case may be, under Chapter I or Chapter II of the ACT shall be admissible, but the neutral shall not be required to participate as a party or in any other manner in any arbitration or judicial procedure with respect to a dispute that is or was the subject of an ADR. The proceedings before the neutral are confidential and cannot be used as evidence in any court without the parties' consent.

In any subsequent legal actions involving a dispute that is or was the topic of an ADR, the neutral is not permitted to represent or argue on behalf of any party to the ADR. Any act committed or omitted in connection with the ADR that was made in the course of that person's official responsibilities and in good faith is not subject to legal action by a neutral or by any other official involved in the ADR process (Alternate Dispute Resolution Act 2017, s 18).

## **Applicability**

Subject to the provision of this Act, the following laws and the rules made there-under shall, *mutatis mutandis*, apply to the procedures under this Act.

1. The Oaths Act (OA), 1873
2. The Limitation Act (LA), 1908
3. The arbitration Act (AA), 1940

Regardless of anything mentioned in the 1940 Arbitration Act, if an arbitration is conducted in line with this Act, the arbitrator must be chosen by the parties with their cooperation. The CrPC 1898, CPC 1908, or QSO 1984 shall not apply to the ADR processes under this Act. The terms of this Act shall apply to any case that was pending before it went into effect, unless the parties specifically agree otherwise. In accordance with this Act's requirements and any regulations made pursuant to it, the rules of the Chamber of Commerce and other pertinent entities, as applicable, shall apply *mutatis mutandis* to proceedings under this Act. In the event that any difficulty arises in implementing any provision of this Act, the Government may, by notification in the official Gazette, establish rules to carry out the purposes of this Act. The government's decision to take action does not have to conflict with any of the provisions of this Act (Alternate Dispute Resolution Act 2017, s 20).

## **Applications of the ACT**



This act is applied in following circumstances listed below: (Alternate Dispute Resolution Act 2017, Schedule I).

1. A dispute between the landlord and tenant.	12. "Personal injury."
2. "Pre-emption cases."	13. "Compensation and damages suit."
3. "Land and property disputes."	14. "Patent, Trade mark and Copyright."
4. "Civil matters under the small claims and minor offences Courts ordinance, 2000."	15. "Dispute under the canal and drainage law."
5. "Commercial dispute including but not limited to any claim, right or interest " arising out of trade and commerce."	16. "Dispute for the recovery of moveable property."
6. "Contractual cases."	17. "Dispute for separate possession of joint immoveable property through partition or otherwise."
7. "Dispute related to the professional negligence."	18. "Dispute for redemption of mortgaged property."
8. "Suit for the specific performance."	19. "Dispute for rendition of accounts of joint property."
9. "Companies and banking matters."	20. "Dispute to restrain waste and remove nuisance."
10. "Insurance."	21. "Mesne profit of property"
11. "Negotiable instruments."	22. "Any other matter under the law not falling in the schedule but agreed to by the parties for settlement under this Act."

### **Litigation**

The term "litigation" refers to a case, dispute, or lawsuit that has been filed in court. In a civil lawsuit or criminal prosecution, the respondent/defendant is the party that filed the claimant/plaintiff. The trial is an adversarial procedure in which each party, who is typically represented by one or more attorneys, presents all relevant evidence and calls



witnesses in an effort to make its case and persuade the judge and/or jury to rule in their favor.

In most cases, the loser has the right to file an appeal with the appropriate appellate court to have the relevant court of first instance's decision set aside. In terms of the types of cases they can hear and the remedies they can award, both trial/first instance courts and appellate courts are constrained by the law. Additionally, there are severe procedural requirements that must be followed by all parties to the dispute at hand during the whole litigation process. Through litigation, the parties concerned effectively cede full management of the disagreement to a third party. Certain litigants have a generally passive attitude, a sense of powerlessness, and frequently a sense of disappointment with the entire process.

The adversarial (common law) and the inquisitorial (civil law) forms of litigation systems are the two types of systems that are employed globally. In the United States, the adversarial system is frequently employed ("US"). includes the presentation of evidence in a procedure subject to strict procedural standards, after which a jury renders a verdict according on guidelines provided by a judge. Similar to an adversarial system, the inquisitorial system also weighs evidence, although it does so for different reasons (Porte M. et.al., 1991).

### **ADR Methods**

In order to resolve a dispute between two parties, there are various different techniques. When a disagreement arises between two parties residing in the same nation, a recognized forum is available for its settlement. The courts created by the law of that nation may be used by the parties to seek resolution of the aforementioned conflict. In most cases, this has been the approach taken by a nation's residents to settle their differences with other citizens. Applying domestic courts, however, will not be thought of as the appropriate course of action if the parties to a dispute are from different nations. It may be advised at this point for the parties to the disagreement to think about using ADR techniques that best suit the conflict at hand (Bakhramova, M. 2022).

Maintaining the process' adaptability should be a goal of ADR systems. This preliminary advice mirrors the stance taken in the European Commission's Green Paper on ADR from 2002, which states that:

ADRs are adaptable, meaning that in theory the parties are free to use ADRs, choose the institution or person in charge of the processes, establish the procedure to be used, choose



whether to participate in person or through representation, and eventually choose the outcome of the proceedings.

### **Advantages and Disadvantages of ADR Methods**

ADR techniques have a lot of advantages and a lot of disadvantages. Due to this, it is strongly advised that disputants evaluate their existing circumstances and case position to determine whether or not they fall under the purview of any ADR mechanism. Advantages and downsides of ADR procedures are reviewed in more detail below to help you appreciate their benefits.

#### **Advantages of ADR:**

1. **Allow Access to Justice:** ADR techniques may be easier to use for people with minimal financial resources.
2. **Efficiency on Time and Cost:** Nevertheless, there are still a lot of debates over how effective ADR is in terms of time and money. It might be feasible to say that alternative dispute resolution (ADR) techniques are more or less effective than adjudicative dispute resolution techniques
3. **Flexible and Creative:** The optimum ADR procedure for each party is available for selection. For instance, in mediation, the parties can choose how to settle their conflict. Remedies that aren't available through a lawsuit may be among them (e.g. a change in the policy or practice of a business).
4. **Confidential:** ADR can maintain confidentiality, in contrast to the legal system where everything is public record. For instance, this can be very helpful in conflicts involving intellectual property that may call for confidentiality.
5. **Win-Win Nature:** ADR procedures avoid conflict. It's crucial to settle disputes amicably and come to win-win solutions if you want to build long-lasting business relationships.

#### **Disadvantages of ADR Methods:**

ADR techniques occasionally don't work well for the disputes at hand. For instance, a court's decision may be preferable if one party wants to establish a legal precedent or if the matter is of public interest.

- **Lack of Court Protection:** As the name suggests, protections that should be provided in litigation are not provided by ADR procedures.
- **Lack of Compulsion:** Every time they feel it's necessary, parties are free to end negotiations. The effectiveness of ADR techniques is seriously called into question by this possibility.
- **Disclosure of Information:** With ADR as opposed to litigation, there are typically less opportunities to learn about the other side's case. If ADR is used before the parties have enough knowledge of the benefits and drawbacks of each case, it may not be effective.



## Conclusion

In all the courts of the country (superior and lower judiciary), there is a large backlog of cases both civil and criminal. As litigation is a highly drawn-out and expensive procedure, it is vital to establish alternative dispute resolution systems in order to resolve issues quickly. For this reason, the above identified loopholes in the procedural aspect of ADR shall be removed immediately to make it more effective and less time consuming. Pakistan can get help from its brotherly country, Turkey, as it has established a very well organized system of ADR mainly focusing on mediation and for this purpose has established many mediation centers across the country.

## Recommendations

Five decades after Pakistan's hard-won creation, there is still debate about which of the two, the formal justice system or the more archaic methods of resolving disputes, is better suited to addressing Pakistani society's socio-legal issues among jurists, anthropologists, the political elite, and the general public.

There are many legal systems around the world with backlogs and delays; Pakistan is not the only country with this issue. But it may be argued that no place seems to have a bigger problem with backlogs and delays than Pakistan in the present. The main issue at hand is how to restore public confidence in the judiciary at all levels and attempt to repair the harm done to it. The rise of litigation is universally regarded as a sign of a collapsing society. Nearly all courts, from the Court of Civil Judge to the Supreme Court, are dealing with an ever-increasing number of cases that are impossible for humans to handle. People are now so litigious that they prefer to take their disagreements, no matter how minor, to various court forums.

In order to ensure compromise between the parties, the judges should do so first. The Holy Qur'an establishes (compromise is a blessing). To halt the litigation, which not only drains their energies but also eventually deprives them of their money, the Judges should persuade the litigants to be generous and gracious in their interactions among themselves as brothers.

*Court proceedings and social issues can both be resolved via the employment of the inborn human virtues of harmony and conciliation. The adversarial system has been with us for a bit too long. Both the populace and the court require change. According to Article 37 of the Islamic Republic of Pakistan's 1973 Constitution, the state is required to "provide*

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*inexpensive and prompt justice." The use of ADR is unquestionably one of the finest methods for resolving the conflict and regaining the public's trust in the legal system.*

In light of the aforementioned reasons, it could be advisable for parties to an argument to evaluate, before deciding on the appropriate course of action, consider their needs and the state of their case. In order to settle it. There are advantages and disadvantages to each approach. Due to this reason, it is not possible to conclude that one strategy completely defeats another. In the corporate world, there is a clear purpose to use ADR techniques for resolving disputes brought on by international business agreements.

Why ADR is superior to litigation because there is a significant backlog of cases in both the country's inferior and superior courts, necessitating the development of more expeditious and cost-effective alternatives to the current legal system. The use of ADR techniques like conciliation and arbitration is becoming more and more popular because litigation is a very time-consuming and expensive process. Panchayat and mediation can be used to settle conflicts quickly, affordably, and with minimal strain on the courts. This was the primary goal of the Alternative Dispute Resolution (ADR) Act 2017.



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