

Alternative Dispute Resolution for Resolving Tax Related Disputes

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Abstract

ADR is essential for resolving issues like case backlogs and providing quick and easy dispute settlement. Numerous benefits, such as time savings, cost-effectiveness, and the disputants' shared relationship, support its preference over litigation. Despite the protagonists' apparent benefits, alternative dispute resolution (ADR) has not been thoroughly investigated in tax dispute resolution. Because tax disputes are a dynamic and public concern, the legal structure governing alternative dispute resolution is difficult. Tax disputes are not usually contentious affairs with numerous disputed facts. The tax authority knows its jurisdiction to collect taxes, and taxpayers know their duty to pay taxes. The flexibility of ADR encourages innovative solutions, especially in family and community conflicts, focusing on maintaining relationships. Despite obstacles, continuous efforts are made to raise awareness and break cultural boundaries. ADR has a bright future in Pakistan thanks to legislative changes and rising cultural acceptance, which signal a shift in a more cooperative and effective judicial system.

Keywords

Tax, Arbitration, ADR, Tax dispute, Legislation

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1. Concept of Tax

Tax is a compulsory imposition on a given state's people to contribute to that particular state's development. Tax payment is one of the essential conditions for each of us if you have earnings in the course of the year due to business, investment, or employment.¹ As a source of state funding of welfare, taxes constitute the premise grounded on which the state is granted the prerogative of levying taxes on its citizens. It should also be noted that the requirement of legal bases for tax collection by the state transfers, first, that the state must have a legal basis for exercising its authority. It is crucial when determining the effectiveness of the actions of a governmental organisation. Second, it explains why tax collection must be based on law, not other regulations, since when the state wants to enforce compulsory levies to the citizens, the levies must be approved by the citizens. This approval is embodied in legislation promulgated by the People's Representative Council as the people's representative. The legislative products in the People's Representative Council are laws².

Therefore, any tax policy's success depends on how well administered it is to avoid many arrears, including assessment, collection, appeal, and resolution; tax avoidance; tax evasion; and even enhancing taxpayer's

¹ Metzger, G. E. (2012), "To Tax, To Spend, To Regulate", Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/hlr126&div=6&id=&page=> (Accessed on 23 January 2025)

² Meiti Asmorowati (2011) "Sengketa Keberatan Dibandingkan Dengan Sengketa Pengadilan Pajak Berdasarkan Peraturan Yang Berlaku," <https://doi.org/10.15294/pandecta.v19i2.9593> (accessed on January 18, 2025)



compliance. A state cannot collect taxes without the taxpayer being allowed to present why the tax should not be levied. Tax credit is considered an essential component of a taxation framework. The stream of work on the conflict resolution processes of tax issues states that the leading cause of the increase in disputes is the different views of the taxpayer and the state³.

The idea that all levies by the state require public approval, including taxes, can be explained, mainly because any levy which does not have the express authorisation of the public is equivalent to theft. This accords with the opinion of an English parliamentarian, Camden, who said in 1737, when there was debate on the tax collection policy, 'Taxes and the consent of people go hand in hand. Also, it was mentioned that ownership is one of the direct rights of the owner; no one can take anything from the owner except the owner or his agent. And if something is taken within an agreement but without the subject's permission, it would be like stealing⁴.

In connection with the case, some laws are adopted concerning the foundation of the various kinds of state taxes, including the Income Tax Law, the Value Added Tax (VAT) Law, the Sales Tax on Luxury Goods (PPnBM) law, and the Stamp Duty Tax Law. Such taxes are usually central regime taxes. In addition to these core taxes, there are excise duties and several other provincial taxes that provinces, municipalities or districts also levy. In the application or the power to assess taxes on the taxpayers, the government also face some issues. These differences could result from a divergence of ideas or views in the tax determination by the taxpayers and the tax authorities.

2. Concept Of Tax Disputes

Tax Disputes refer to any dispute or contest between the commissioner general of the revenue authority and the taxpayer. Disagreements such as these are usually due to misinterpretations of statutes or tax avoidance. Disputes may begin in many ways, although most typically, they arise from an implementation accomplishment started by the tax management with which the exorbitant taxpayer does not concur. They may ascend where, on audit or examination, the tax administration believes that further taxes should be distributed, and the Section issues an assessment a reconsideration or a demand for tax payment. Some examples of findings from an audit or examination that lead to disputes regarding the amount of tax liability include conflicts that occur in relation to the amount of taxable income computed by the taxpayer, disputes over the transfer pricing method chosen by the taxpayer in determining the value of transactions with associated enterprises; where there is a difference as to whether the taxpayer is entitled to a foreign tax credit or how it must be computed⁵.

³ Wahyu Kartika Aji (2022), "Penyelesaian Sengketa Pajak Atas Gugatan Dan Sanggahan: Suatu Perspektif Keadilan," https://scholar.google.com.pk/scholar?cluster=1428858103929487766&hl=en&as_sdt=0,5 (accessed on January 18, 2025)

⁴ Halima & Festy (2023) "CHA Triyono Martanto: Tunggakan Perkara Peradilan Pajak Dapat Diatasi Dengan Penerapan Sengketa Sederhana," https://komisiyudisial.go.id/frontend/news_detail/15265/cha-triyono-martanto-tunggakan-perkara-peradilan-pajak-dapat-diatasi-dengan-penerapan-sengketa-sederhana#:~:text=Berdasarkan%20data%20yang%20calon%20paparkan,menggerus%20tunggakan%20sebanyak%20821%20perkara (accessed on January 18, 2025)

⁵ Altman, Z. D. (2005). *Dispute resolution under tax treaties* (Vol. 11). IBFD. <https://books.google.com.pk/books?hl=en&lr=&id=VU9pWawzIDYC&oi=fnd&pg=PA1&dq=Tax+Disputes+refer+to>

As elaborated earlier, a tax dispute arises when the taxpayer or the tax guarantor disagrees about the tax authority's amount of tax debt identified from the Tax Assessment Letter. The tax Assessment Letter in the self-assessment system is provided as a consequence of the tax audit, and it will be appreciated that the tax audit is intrinsically an authority of the tax authority in overseeing the operation of the self-assessment system. Even though the self-assessment system entrusts sources of tax revenue calculation clearly to the taxpayers, there is a possibility that the complete trust that the law gives to taxpayers is not used correctly. Before ADR is used to solve disputes and prevent disputes without coming to court, the principle of agreement is given precedence.

3. Concept Of Alternative Dispute Resolution (ADR)

ADR means an Accordance Dispute Resolution, a neutral process of solving disputes outside the judicial system. It is efficient because every party gets what they want from the conflict without spending time or money in court. ADR involves using structures that do not require the court's involvement to solve disputes; hence, it is a perfect answer for conflict resolution.⁶

According to the handbook by James L. Creighton et al., the meaning of ADR is an attempt to reach joint decisions. It is not adversarial, unlike such processes as litigation or administrative claiming that deliver "winner and loser" solutions. Given this understanding, the conclusion can be made that. ADR, or Assess and Develop Resources 'main operation' is a form of dispute management that relies on seeking desirable outcomes. This is different from litigation, where it is either a winner-takes-all kind of process or procedure⁷. ADR can be seen as an attempt to save oneself from the shortcomings of accommodating the conflict resolution mechanism known as the litigation process. Dispute resolution through ADR is considered to have several advantages, such as:

- a) It can expedite dispute resolution, as it is based on negotiation between the parties involved
- b) The parties determine the decision, giving them significant control and ensuring predictability.
- c) This approach also saves time and costs.

Thus, one can guess that there will be no differences, rivalry or other conflicts that are intrinsic characteristics of the systematic activity of any community. Contrasts are part of a man's communications with friends, family, or workplace. What is essential here is how we can maintain that calm. Modes of conflict management have been practised since an ancient era when civilisation emerged in society. All of these are part of the interaction of two or more individuals. On the other hand, the big point to address is maintaining order. Methods of conflict solving may be traced from the prehistoric age of human civilisation conflicts that are an inherent part of the systematic functioning of any community. Contrasts are part of a man's communications with friends, family, or work. But what is crucial here is how we can maintain that calm.

[+any+dispute+or+contest+between+the+commissioner+general+of+the+revenue+authority+and+the+taxpayer.+&ots=05zkVGwdMS&sig=mZYIKXi6g2of5bWyJwWfdmpVEyE#v=onepage&q=Tax%20Disputes%20refer%20to%20any%20dispute%20or%20contest%20between%20the%20commissioner%20general%20of%20the%20revenue%20authority%20and%20the%20taxpayer.&f=false](https://www.iwr.usace.army.mil/portals/70/docs/iwrreports/96-adr-p-5.pdf) (accessed on January 18, 2025)

⁶ Mackie, K. J., & Mackie, K. (2013), "A handbook of dispute resolution". (Accessed on 23 January 2025)

⁷ James L Creighton, (2016) "Overview Of Alternative Dispute Resolution (ADR): A Handbook for Corps Managers", <https://www.iwr.usace.army.mil/portals/70/docs/iwrreports/96-adr-p-5.pdf> (accessed on January 18, 2025)

Methods of conflict resolution have existed since ancient ages in civilisations that arise in any community. These differences are just a part of human interaction. However, what's important is finding ways to keep things peaceful. Techniques for resolving disputes have a long history, dating from early civilisations. Early societies used guidelines, ethno standards and feelings of the elder or head of the society to reign in or punish offenders without resorting to those in authority on matters concerning the dispute⁸.

4. ADR and its Kinds

ADR encompasses methods that include mediation, arbitration, negotiation, and conciliation. ADR can be described as a set of processes available to the conflicting parties in an attempt to do away with the regular court processes. Unlike conventional methods of handling conflicts through harsh litigation, ADR is characterised by cooperation, discussion, and establishing friendly agreements⁹. The four most commonly used types of ADR are:

4.1 Arbitration

Arbitration is a way of settling disputes in which problems or disagreements are taken to one or more impartial arbitrators.¹⁰ Thus, the parties consent to submit the matter for consideration by an arbitrator. At the same time, the latter serves as the independent judge who examines the case made by the parties and the documents they provide. The decision arrived at by an arbitrator is known as an award. Notably, arbitration adds efficiency and affords the parties a more professional and individual dispute resolution process. It provides a more efficient and viable way of solving conflicts other than going to trial.

4.2 Mediation

Negotiation or Mediation is a famous experimental negotiation technique through which the parties' agreement achieves resolution. It requires a third party—a neutral person who aids the parties in conveying a message and bargaining. The main difference between mediation and reaching generic legal decisions lies in understanding the focus, where mediation establishes cooperation and joint decision-making based on shared knowledge and respect of the participants.

The third feature is flexibility, a synonym for spontaneity for many scholars. The parties acknowledge voluntary participation, given that they also act as the decision-makers in the case. Considering that in adversarial court proceedings, the parties are bound by the law, engagement in the mediation resolution process is free. A critical approach to mediation is the power perceived to be vested in the parties' hands.

In Pakistan, the structure of the mediation system has developed over the last two decades. The beginning of the legal regulation of mediation can be considered the adoption in 2002, a code amendment 89-A of the Code of Civil Procedure. This amendment allowed courts to refer cases to mediation at any stage; however, it did not proscribe how meditations should be carried out, what standards and qualifications a mediator should meet, or how mediation outcomes could be enforced.

⁸ J.L.Bell, (2013) "No Taxation Without Representation (Part 2)," <https://allthingsliberty.com/2013/05/no-taxation-without-representation-part-2/>⁸ (Accessed on 18 January, 2025)

⁹ Jurgees, S. M. R., Suleman, S., & Shahid, A. (2024), "The Role of Alternative Dispute Resolution (ADR) in Pakistan's Legal System", <https://doi.org/10.55737/qjssh.733319300> (Accessed on 18 January, 2025).

¹⁰ Reuben, R. C. (2004), "Democracy and dispute resolution: the arbitration problem". Available at: <https://www.jstor.org/stable/27592042> (Accessed on 23 January 2025)

The Small Claims and Minor Offences Courts Ordinance 2002 also provided further roots to mediation; according to section nine, a new small claims court may cause such a case to be referred for compulsory mediation or conciliation on the parties' option. However, as was earlier pointed out, the ordinance did not go down well and did not, barring any drastic changes, have any tangible effect because the intended beneficiaries and the rest of the public did not know it existed, and even if they did, there were no resources to implement it. A similar trend of democratisation is also visible in other laws and regulations law, like the local government ordinance 2001, which provided for muslahathi committees to incorporate a traditional conflict resolution system within the legal structure.

4.3 Conciliation

In the ADR, conciliation is a critical technique that applies the involvement of a third party known as a mediator. While the mediator encourages the parties to discuss the issue in the mediation process, the conciliation process often suggests practical recommencements and intervene to close the gap between the conflicting parties. Conciliation aims to help the parties realise their similar interests, understand each other, and find an agreement that will satisfy both.¹¹

4.4 Negotiation

As a method of managing and solving conflicts, ADR can be divided into many categories, one of which is negotiation, and it can be referred to as a core process of ADR. Unlike, for instance, court procedures, mediation or any other third party's intervention, negotiation involves two parties in a dispute who work out a solution to the problem themselves. It is asynchronous and unstructured communication in that both the participants wish to talk and negotiate their objectives, aspirations and concerns.

Negotiation may be interpersonal, business or diplomatic, recognising that interpersonal conflict is an element of business conflict and diplomacy is a part of business negotiations. A negotiation setting allows the parties to manage the process of the talks directly, and nobody can make decisions on their behalf. Meet this aspect of self-determination enables one to design special procedures and measures that may be impossible when using court litigation. In addition, negotiation involves more participation and develops a detailed appreciation of the opposite party's positions, increasing the conflict parties' perception of the humanity of the conflict.

5. ADR and Worldwide Adaptation for Tax Disputes

The community. Formal conflict resolution mechanisms started to arise as cultures became sophisticated. Central official bodies of the ancient world's emerging civilisations, with their decision-makers responsible for settling disputes, like the Sumerians, Egyptians, and Greeks, formed simple legal structures. Ancient societies having appointed authorities in charge of resolving conflicts, such as those in Mesopotamia, Egypt, and Greece, created basic legal systems. These early systems mainly depended on religious or supernatural components. These legal systems were successful in many ways, but they also have drawbacks, including exorbitant expenses, drawn-out hearings, and little influence over the outcome.¹²

¹¹ Melenko, O. (2020), "Mediation as an Alternative Form of Dispute Resolution: Comparative-Legal Analysis". Available at: <https://www.ceeol.com/search/article-detail?id=956631> (Accessed on 23 January 2025)

¹² Barrett, J. T., & Barrett, J. (2004), "A history of alternative dispute resolution: The story of a political, social, and cultural movement". Available at: <https://books.google.com.pk/books?hl=en&lr=&id=JSyCDiwmF7kC&oi=fnd&pg=PR7&dq=The+community.++Form>

ADR has been introduced into judicial systems worldwide as more and more people have realised the benefits of using it. According to legislation and positive steps taken by governments and legal organisations, ADR has been encouraged by establishing ADR facilities.¹³ This trend advocates a shift of turning power-favouring parties into having the autonomy to seek and demand outcomes and resolve their disputes in a manner most suitable for their needs. Embraced ADR by passing legislation and creating specialised ADR facilities to encourage its usage. This trend demonstrates a movement in favour of giving parties more authority to actively participate in settling their conflicts and seek results catered to their particular requirements¹⁴

As observed by the Chief Justice of New South Wales, Sir Laurence Street, ADR is efficient. Data has shown that it is even more essential, flexible, and less adversarial in procedure. Parties often prefer ADR because it offers an opportunity to avoid litigation. They include decreased cost and time provisions, the option to choose a mediator and an interest-based approach.

Lord Woolf, the former Chief Justice of England and Wales, spoke highly of ADR for the possibility that the adoption may be faster and cheaper than the existing lawsuit process in the United Kingdom. He noted that ADR is more elastic and accustomed to the peculiarities of the interests of the parties of the dispute¹⁵

Richard C. Reuben offers unique views, saying that the method used for the other type of dispute mechanism is different from the traditional methods. In ADR, an independent person is chosen by the parties in a dispute, and both parties consent to his decision. ADR differs from formal litigation in that a judicial decision is forced on the parties involved.

In ADR, they identify their forum of preference and are empowered to determine the procedure to be followed. Renowned international arbitration advocate Gary Born has also elaborated on the benefits of ADR, stating that the result of such a solution would allow for maintaining business relations between the parties. However, he also noted that ADR may not always be advisable for large-scale or costly resolutions to legal issues¹⁶

[al+conflict+resolution+mechanisms+started+to+arise+as+cultures+became+sophisticated.+&ots=mP7Q2szKWk&sig=LnJIWdAI58gvsADrA3KOIsOuMrQ#v=onepage&q&f=false](#) (Accessed on 23 January 2025)

¹³ Cortes, P. (2018), "Using technology and ADR methods to enhance access to justice". Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijodr5&div=14&id=&page=> (Accessed on 23 January 2025)

¹⁴ Barrett, J. T., & Barrett, J. P. (2004). "A history of alternative dispute resolution: the story of a political, cultural, and social movement. Jossey-Bass". Available at: [https://books.google.com.pk/books?hl=en&lr=&id=JSyCDiwmF7kC&oi=fnd&pg=PR7&dq=Barrett,+J.+T.,+%26+Barrett,+J.+P.,+\(2004\).+A+history+of+alternative+dispute+resolution+:+the+story+of+a+political,+cultural,+and+social+movement.+Jossey-Bass&ots=mP7Q-nCIXe&sig=F7mPcB83Zc17T2vFdUI3e-23Ysg#v=onepage&q&f=false](https://books.google.com.pk/books?hl=en&lr=&id=JSyCDiwmF7kC&oi=fnd&pg=PR7&dq=Barrett,+J.+T.,+%26+Barrett,+J.+P.,+(2004).+A+history+of+alternative+dispute+resolution+:+the+story+of+a+political,+cultural,+and+social+movement.+Jossey-Bass&ots=mP7Q-nCIXe&sig=F7mPcB83Zc17T2vFdUI3e-23Ysg#v=onepage&q&f=false) (Accessed on 18 January, 2025).

¹⁵ De Girolamo, D., & Underhill, D. S. (2022), "Alternative Dispute Resolution and the Civil Courts: A Very British Type of Justice-The Legacy of the Woolf Reforms in 2022". Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/amcraesii4&div=11&id=&page=>

¹⁶ Born, G. (2021). International Commercial Arbitration: Commentary and Materials. BRILL. <https://books.google.com.pk/books?hl=en&lr=&id=OSxVEAAAQBAJ&oi=fnd&pg=PR3&dq=Renowned+internation>

It is also relevant to note the words of Justice Warren Burger, the former Chief Justice of the USA Supreme Court. He said that if we faced the bitter truth, we might be on our way to a society with more lawyers – hungry like locusts – and far more judges than the world has ever seen. It is plain nonsense to suggest that ordinary people want judges in black robes, proper-looking lawyers, and handsome-looking panelling as the stage for their battles. Similar to people suffering from a certain kind of pain, they want to get rid of the problem, and the same desire those who have some legal concerns wish to solve them quickly and cheaply. It is about time the legal profession set up and became the doctor of human conflicts, presenting applicable solutions to make settlements rapidly, cost-efficiently, and without much fuss. This, in a nutshell, best defines the concept of justice¹⁷.

6. ADR and Tax dispute in Pakistan

Peace is preferable to a good lawsuit. Since people are social animals and unlike other animals, they form relationships with others where they tend to perform legal duties and have legal rights. Negotiations also mean that conflicts may occur in cases where one of the interacting parties or several of them act oppositely, without good faith, so the conflict remains unsolved. Conventional means of solving such cases have entailed legal procedures, which include litigation or non-litigation techniques. Ideally, litigation should be a preventative measure; unfortunately, the nature of the Pakistani court system means long delays, high costs, and adversarial proceedings, which are inefficient ways of resolving conflicts most of the time. This inefficiency has enhanced the pile-up of dockets in Pakistan's Supreme Court, holding back the provision of speedy and cheapest justice. Today, the courts in Pakistan have many cases that are still enduring. Further commercial or civil suits take much time concerning the time required to settle those cases¹⁸.

The dispensation of justice has been slowed down in Pakistan because of the many cases filed in the country's courts. However, there is a backlog of cases that prolongs conflict resolution; therefore, ADR is effective since it is faster and less costly than litigation. Also, in rural areas where people cannot easily access the formal court system, ADR will enhance justice delivery. In like manner, ADR can help lighten the load on the justice system, improving the provision of justice. This, in turn, leads to more confidence in the justice delivery system in a given society since parties in a conflict will be privileged to engage in their mediation. In sum, since ADR can be more efficient, economical, and elastic, it propounds to enhance the delivery of law and people's confidence in the same¹⁹.

Other than the conventional case-following method of approaching the issue in the Pakistan court, ADR has therefore been adopted to solve diverse conflicts. There is more focus on ADR methods today because of the

[al+arbitration+advocate+Gary+Born+has+also+elaborated+on+the+benefits+of+ADR,+&ots=PgJes32SqM&sig=HBhUDMzxADDBMCclu5zocSWIGao#v=onepage&q&f=false](https://www.researchgate.net/publication/328111111_ADR_in_Pakistan_A_Review_of_the_Current_Situation)(Accessed on 18 January, 2025).

¹⁷ Calkins, R. (2015), "Former Chief Justice Warren E. Burger's Disparagement of the American Judicial System and Sponsorship of Mediation". Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/resolvjo5&div=4&id=&page=> (Accessed on 18 January, 2025).

¹⁸ Arshad, S. A., & Saleem, H. A. R. (2025), "Integration of Alternate Dispute Resolution as a Complement to the Traditional Court System in Pakistan". Available at: [10.55737/qjssh.733319300](https://www.researchgate.net/publication/328111111_ADR_in_Pakistan_A_Review_of_the_Current_Situation) (Accessed on 18 January, 2025).

¹⁹ Ali, M., & Geng, L. L. (2019), "Alternative dispute resolution (ADR) in Pakistan: The role of lawyers in mediation procedure". Available at : <https://journals.pen2print.org/index.php/ijr/> (Accessed on 21 January, 2025)

difficulties experienced with the legal resolution system, which are characterised by case delays, procedure length, and costs²⁰.

The Arbitration Act of 1940 is an essential part of Pakistani law, which laid down the rules for dealing with arbitration. It identifies which kinds of persons can act arbitrators, how proceedings are conducted, and how arbitration clauses are implemented. This statute permits the resolution of disputes through arbitration, a relatively less formal process than litigation. From the British colonial period, the Act has been amended several times to suit the growing legal system in Pakistan²¹

As mentioned above, the Arbitration Act of 1940 is one of Pakistan's fundamental laws for ADR. This law outlines arbitration procedures and acknowledges the execution of awards made under arbitration. It describes the method used in selecting arbitrators, the process of conducting hearings and how arbitration contracts can be enforced. The statute permits parties to solve their conflicts through arbitration, which is comparatively more flexible and less bureaucratic than a lawsuit.²²

Officially, Pakistan embraced ADR on May 30, 2017, when Islamabad's Alternate Dispute Resolution Act was passed. It is an Act that saw the general simplification of the conflict resolution procedures that do not involve the courts. In particular, it should be pointed out that the Act prescribes the application of ADR as obligatory unless the court decides that resolving the dispute through ADR is impossible²³.

The Punjab Assembly approved the Punjab Alternate Dispute Resolution (ADR) Act 2019 in November 2019 in the province of Punjab. This Act offers provisions on how to deal with all sorts of ADR approaches, including mediation, conciliation, and arbitration, among others.

In the province of Sindh, there is no law governing ADR. Nonetheless, the amendment to the Code of Civil Procedure was made in 2018, and the new section 89-A became law, which is currently the only law uniform or codified law about ADR in the province.²⁴

On December 28, 2020, the KPK ADR Act was passed to start the new procedure for resolving disputes in the KPK. This Act seeks to empower parties to resolve their disputes outside the court, with more efficiency and lower costs than through the legal enforcement of the law. As provided by the provisions of this Act, discharge by the court of a civil case under this Act may be referred to ADR with the consent of the parties in the dispute. Also, a civil dispute can be referred to ADR by either a deputy commissioner or any other officer as allowed by law. In civil cases, the limit period for ADR is six months. In criminal cases, the ADR process is supposed to be completed in three months.²⁵

²⁰ Menkel-Meadow, C. (1996), "Introduction: What Will We Do When Adjudication Ends: A Brief Intellectual History of ADR". Available at : <https://scholarship.law.georgetown.edu/facpub/1765> (Accessed on 18 January 2025)

²¹ Arbitration Act 1940 Pakistan. (Accessed on 18 January 2025)

²² Riles, A. (2014), "Managing regulatory arbitrage: A conflict of laws approach". Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/cintl47&div=6&id=&page=> (Accessed on 23 January 2025)

²³ Pendency in Supreme court <https://www.dawn.com/news/1850172> (Accessed on 18 January 2025)

²⁴ Ahmed, S., Hussein, A., & Khuhro, M. R. (2023), "Alternative Dispute Resolution (ADR) in Shariah and its Institutionalization in Pakistan, Reforms and legislation in Sindh and the way forward". (Accessed on 23 January 2025)

²⁵ Khan, M. D. (2025), "16 Consumer ADR in Pakistan. Consumer Alternative Dispute Resolution in Emerging Economies". Available at: https://books.google.com.pk/books?hl=en&lr=&id=gDg_EQAAQBAJ&oi=fnd&pg=RA1-

The legal regime for the ADR practice in Balochistan is still under legislation. To tame this nudging demand for faster disposal of the cases, the Code of Civil Procedure, 1908, was amended with Section 89-A. This section will seek to offer ADR in civil matters to offload pressure from the already burdened court judge due to the growing number of case backlogs. Order IX-B, explicitly dealing with Alternate Dispute Resolution, was also incorporated to cover dispute resolution through ADR.²⁶ According to this, the legislator allows other reparation methods to resolve the conflict between the parties.

Also, the Family Courts Act of 1964 deals with ADR concerning family conflicts. Family courts have been given the authority to resolve them through mediation or conciliation under sections 10 and 12 of the Act. These provisions enhance respect for family relationships or the necessity to continue communication regardless of the members' age. The Lahore High Court has pointed out that the advantages of ADR include the possibility of a party receiving what it desires and a speedy solution to a conflict²⁷. Former Chief Justice of Pakistan Nasir Aslam Zahid talked about the possible benefits of ADR in Pakistan by saying that it is more informal and not as confrontational as traditional litigation, which is good for Pakistan and its legal system. He also revealed some demerits of ADR, including difficulties in implementing the ADR agreement and ADR awards²⁸.

Former Justice of Pakistan's Supreme Court Tassadiq Hussain Jilani has described the virtue of ADR versatility, and he said that it is a sort of way where every member is deciding on his/her own. He also pointed out the weakness of ADR, namely, the sometimes absence of public control. The advantages of ADR, according to the circumstances of Pakistan and the concerns related to the justice delivery system, are considerable, especially for the individuals and the tiny business houses who cannot afford to file regular litigation. ADR could open opportunities to resolve disputes cheaper than traditional legal battles.

It must be noted that fundamental human rights include a right to fair treatment and an automatic right to justice (Constitution of Pakistan, 1973). The legal fraternity and judges strongly believe that ADR is a measure to shift the burden from the courts and has intended a concept of speedy justice. The legal procedures regarding the freedoms of parties should be fair and elegant to guarantee full representation rights for any side involved in processes such as litigation. ADR can provide resolution through it since it is a form of resolving disputes.

[PT99&dq=On+December+28,+2020,+the+KPK+ADR+Act+was+passed+to+start+the+new+procedure+for+resolving+disputes+in+the+KPK&ots=1WmrK4eebB&sig=J-qfoFCnoV2MfB2IAHfNMreHx_w#v=onepage&q&f=false](https://www.dawn.com/news/1863986/audit-reveals-over-one-million-pending-cases-in-punjab-courts)

(Accessed on 23 January 2025)

²⁶ Riskin, L. L. (2008), "Awareness and ethics in dispute resolution and law: Why mindfulness tends to foster ethical behavior". Available at: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/stexlr50&div=26&id=&page=>

(Accessed on 23 January 2025)

²⁷ Lahore High Court. (2024), "More than one million cases pending before district judiciary: A comprehensive physical audit reveals backlog in Lahore High Court and district judiciary of Punjab". Available at: <https://www.dawn.com/news/1863986/audit-reveals-over-one-million-pending-cases-in-punjab-courts> (Accessed on 18 January 2025)

²⁸ Gold, J. A. (2005), "ADR through a cultural lens: How cultural values shape our disputing processes".

Available at: <https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1493&context=jdr> (Accessed on 18 January 2025)

To open up justice as access to it remains a significant challenge, improvements in the existing structures should be contemplated. For example, a man or a woman who is an elder in the community or an elder in the local assembly could argue cases and determine issues, and they could do this with or without the help of a lawyer. The applicant would orally give their statement in person and on oath and produce any supporting document. If the other party has something against them, they will also reveal it. Typically, this conflict can be resolved during one hearing only.

ADR is a possible solution to the delay that currently prevails in the courts and offers cheap and readily available justice. The present study regarding ADR in Pakistan goes a long way in establishing the state of affairs vis-à-vis the subject of dispute resolution. The research points out the shortages of the existing research and provides insight into the current situation with ADR in the country and the areas where more work is required to introduce and develop ADR. This study expects to contribute to the increasing understanding of ADR and the possibilities and drawbacks of ADR in practice and, hence, contribute to the establishment of more adequate ADR systems in Pakistan²⁹.

Under the Alternate Dispute Resolution Law in Pakistan, specifically Schedule I and II of the Punjab Alternate Dispute Resolution Act, the following types of cases are generally considered suitable for the ADR process³⁰.

1. Land and property disputes
2. Contractual disputes
3. Dispute between landlord and tenant
4. Commercial disputes
5. Pre-emption cases
6. Companies and banking matters
7. Insurance disputes
8. Personal injury/defamation suits
9. Negotiable instruments
10. Suits for specific performance
11. Disputes related to professional negligence
12. Suits for compensation and damages
13. Disputes related to mortgage
14. Trademark disputes
15. Dispute for recovery of moveable property
16. Dispute related to accounts in joint business
17. Suits related to mesne profit
18. Suits for partition
19. Suits to remove nuisance

²⁹ Lee, C. K. (2016), "Selection and use of alternative dispute resolution (ADR) in construction projects". Available at: <https://doi.org/10.1016/j.ijproman.2015.12.008> (Accessed on 19 January 2025)

³⁰ Won, S. K. (2013), "Overview of alternate dispute resolution with special reference to arbitration laws in Pakistan. » Available at : <https://doi.org/10.16998/jas.2013.23.3.149> (Accessed on 19 January 2025)

7. Conclusion

ADR is quick and efficient; it offers a strong substitute for traditional litigation. In contrast to the frequently drawn-out court proceedings, the accelerated resolution of conflicts through ADR processes solves the crucial problem of case backlog and guarantees speedier access to justice. It is cost-effective. In addition to making dispute resolution more affordable for people and businesses, its simplified processes and fewer formalities also help create a more inclusive legal system. ADR is further distinguished by its flexibility and customizability, which enable parties to create solutions tailored to their particular needs. This flexibility encourages innovative and amicable solutions, supporting a more participatory approach to conflict resolution. ADR has the potential to significantly enhance Pakistan's legal system's effectiveness, accessibility, and inclusivity as it becomes more integrated into the country's legal culture. The continued dedication to alternative dispute resolution (ADR) signifies a revolutionary stage in the nation's legal system and represents a more significant movement towards cooperative and non-adversarial methods. The tax authorities view this as an inherent barrier to individual, practical, and acceptable comparator methods. In this regard, emphasis should be placed on the significance of comprehending the effective and efficient administrative and tax systems and the legal remedies in particular. The frequently intractable tension between economy and lawfulness can be resolved only by striking a balance between formality and flexibility.

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