

INTEGRATING ADR INTO LEGAL EDUCATION IN PAKISTAN: NEED FOR CURRICULUM REFORM

Dr Sanaullah Aman^{*1}, Alishba Shahlalay²

^{*1}CEO SAAROSH ADR Centre

²Law Student at Islamia College University, Peshawar

^{*1}sanaullah.aman@yahoo.com, ²shahlalayalishba@gmail.com

Corresponding Author: *

Dr Sanaullah Aman

DOI: <https://doi.org/10.5281/zenodo.15903390>

Received	Revised	Accepted	Published
19 April, 2025	25 May, 2025	25 June, 2025	15 July, 2025

ABSTRACT

In recent years, Pakistan has seen a growing recognition of Alternative Dispute Resolution (ADR) as a vital tool for managing the judiciary's overwhelming caseload. Alternative Dispute Mechanism (ADR) mechanisms, such as arbitration, mediation, and conciliation, provide effective alternatives to traditional court proceedings, enabling disputes to be resolved in a more efficient, cost-effective, and timely manner. By leveraging ADR, parties can avoid the lengthy and often cumbersome process of litigation, reducing the burden on the courts and allowing for faster resolution of disputes. The integration of Alternative Dispute Resolution (ADR) into Pakistan's legal education system is a crucial reform that can help address the country's growing judicial backlog. ADR offers an efficient, cost-effective, and time-saving way to resolve disputes outside of traditional court proceedings. However, despite its global recognition, ADR remains largely overlooked in Pakistan's legal curriculum. This study delves into a comprehensive framework which is a need to embed ADR into legal education through curriculum reform, faculty development, clinical training, and regulatory support. By integrating ADR into legal education, Pakistan can promote a culture of peaceful conflict resolution, modernize the legal profession, and better equip lawyers to meet the evolving needs of justice delivery.

KEYWORDS: Dispute, Resolution, legal framework, curriculum reforms, Islam, awareness..

INTRODUCTION

Alternative Dispute Resolution (ADR) is gaining popularity in Pakistan as a way to manage the judiciary's heavy workload. ADR mechanisms like arbitration, mediation, and conciliation provide efficient and cost-effective alternatives to traditional court proceedings, enabling faster dispute resolution and reducing the burden on courts. Legal education should strike a balance between training professional practitioners and providing a liberal education. Law schools should equip students with the ability to critically analyze legal institutions, develop theoretical understandings of law, and expand legal knowledge. By doing so, law schools can produce

well-rounded graduates who not only possess practical skills but also a deep understanding of law and its role in society.¹ The main goal and theme of integrating ADR into legal education is : Firstly, it provides a realistic understanding of how the legal system operates as most of the cases settle rather go to trial. Secondly, it incorporates experiential learning such as role playing and case studies through which students are able to develop skills such as problem solving, decision-making and critical thinking / analysis. Thirdly, it teaches valuable learning skills including counseling and negotiation and Lastly, it focuses on dispute resolution that promotes a forum that

emphasizes collaboration, joint problem-solving, and efficient solutions, ultimately shaping students into more effective and empathetic lawyers.²

DEFINITION:

The Alternative Dispute Resolution Act, 2017 of Pakistan defines Alternative Dispute Resolution (ADR) as “a process in which parties resort to resolving a dispute other than by adjudication by Courts and includes, but is not limited to, arbitration, mediation, conciliation, and neutral evaluation”. In plain words, ADR is a process consisting of key methods, such as arbitration, mediation, and conciliation, that can be used to resolve conflicts. Unlike Courts, where litigation is required, the process of ADR requires a neutral third party, such as an Arbitrator, who can arbitrate between the conflicting parties.³

SCOPE OF ADR:

Alternative Dispute Resolution (ADR) offers several benefits, including reduced costs, increased efficiency, and improved relationships between parties. By avoiding the formalities and adversarial nature of traditional litigation, ADR promotes a more collaborative and flexible approach to dispute resolution. Additionally, ADR allows parties to have more control over the process and outcome, enabling them to find creative solutions that meet their specific needs. As a result, ADR has become a popular choice for resolving a wide range of disputes, from commercial and consumer issues to employment and family matters. Overall, ADR provides a valuable alternative to traditional litigation, helping parties to resolve disputes in a fair, efficient, and cost-effective manner. ADR techniques like mediation, conciliation, and arbitration help parties work together to find mutually acceptable solutions, promoting collaboration and creative problem-solving. It is increasingly used in various disputes, including commercial, consumer, employment, and family matters, providing a more efficient and effective way to resolve conflicts.⁴

ADR UNDER ISLAMIC LAW:

In Islam, the teachings of the Quran and Sunnah (the Prophet Muhammad's sayings, actions, and approvals) are the primary and most sacred sources of guidance. These sources provide a

comprehensive system for all aspects of life, including dispute resolution. If Muslims understand that Alternative Dispute Resolution (ADR) is rooted in Islamic teachings, they are likely to embrace it not just as a useful tool but as a religious obligation, practicing it with dedication and enthusiasm. This unique blend of spiritual and practical guidance sets Islamic law apart from other legal systems.⁵

It is clearly stated in the Quran that:

“And this is a blessed Scripture which we have revealed. So follow it and ward off (evil), that ye may find mercy.”⁶

“And if you fear a breach between the two, then appoint one arbitrator from the husband’s family and the other from the wife’s family. If both (the arbitrators) resolve to bring about settlement, Allah will create harmony between them. Indeed, Allah is All-Knowing, All-Aware.”⁷

Islamic law contains the process of Sulh by following ADR in which resort is made to solution of problem. The main reason is that it is cost-effective, time-saving, and resource-efficient. Moreover, it helps preserve relationships, keeps families united, and prevents further social conflicts, ultimately benefiting the community as a whole.

It is based on the Verses of the Quran and Sunnah of the Prophet Muhammad (S.A.W.W).

Following are the Verses from the Quran, which provides foundation for Sulh:

“The believers are naught else than brothers. Therefore make peace between your brethren and observe your duty to Allah that haply ye may obtain mercy”.⁸

“And if two parties of believers fall to fighting, then make peace between them. And if one party of them doth wrong to the other, fight ye that which doth wrong till return unto the ordinance of Allah; then, if it return, make peace between them justly, and act equitably. Lo! Allah loveth the equitable”.⁹

Keeping this in view, second caliph ‘Umar (R.A.), while issuing judicial directives to the qāḍīs said, “Return the litigants to affect compromise for adjudication will bring hatreds to the masses”. On another occasion he pointed out, “Enable the litigants, particularly, when they are relatives, to make an amicable settlement, for adjudication would create enmities amongst them.

On the other hand, ADR strikes at the very root of conflict on the basis of no bamboo no flute. It believes in resolution instead of mere disposal. Here, both are victorious and no one is vanquished. There is less consumption of time, wealth and exertion. It is advisable for a qāḍī to refer the litigants to ADR, before the commencement of trial. The Prophet Muḥammad (œ) said, “Compromise is permissible amongst Muslims provided it does not turn the unlawful to lawful and lawful to unlawful”. If the qāḍī apprehends the adjudication will worsen the situation and will amount to bloodshed between the disputants, recourse to ADR becomes imperative.¹⁰

Other than Sulh there are other methods such as Tahkim (arbitration), and Fatwa (expert determination), are recognized and utilized in Islamic legal systems and are considered permissible under Islamic principles.

Evolution of Alternative Dispute Resolution (ADR) in Pakistan: A Legislative and Institutional Overview

The genesis of Alternative Dispute Resolution (ADR) in Pakistan can be traced back to the British Indian legal framework, wherein the Bengal Regulations of 1782 laid the groundwork for ADR mechanisms. The subsequent promulgation of the Code of Civil Procedure, 1882, and the Arbitration Act, 1899, further institutionalized ADR provisions and arbitration as a recognized mode of dispute resolution. The Arbitration Act, 1940, established a comprehensive ADR framework. Notwithstanding this pedigree, Pakistan's trajectory in reforming its arbitration laws has been relatively sluggish in comparison to other jurisdictions within the region.¹¹ Pakistan's Alternative Dispute Resolution (ADR) mechanisms have a historical foundation dating back to the 1908 Code of Civil Procedure¹². The Arbitration Act of 1940¹³ further solidified ADR's importance. The 1973 Constitution¹⁴ recognized ADR's role in resolving water disputes between provinces and the federal government. Subsequent laws, such as the Qanoon-e-Shahadat Order of 1984¹⁵, introduced oath-based decision-making. In the 21st century, legislative measures and policies, including the 2009 National Judicial Policy¹⁶, have promoted mediation, reconciliation, and ADR to reduce court backlog

and enhance access to justice, underscoring ADR's growing significance in Pakistan's legal framework.

ALTERNATE DISPUTE RESOLUTION IN PAKISTAN: AN OVERVIEW

The implementation of Alternative Dispute Resolution (ADR) mechanisms facilitates the promotion of inclusivity and equity by affording marginalized groups, including women, accessible forums for dispute resolution. Pursuant to the ADR Act of 2017, provisions have been made to enhance female participation in mediation proceedings¹⁷. By embracing ADR, Pakistan can align itself with international best practices, as exemplified by jurisdictions such as Singapore and the United Kingdom, which have derived substantial benefits from ADR, including expedited justice delivery and diminished court caseloads. The adoption of ADR can thus enable Pakistan to effectively address its judicial challenges and provide a more efficient dispute resolution framework.¹⁸

Moreover, its participatory approach fosters public trust in the justice system, as parties feel more in control of the outcome. Successful examples from countries like Turkey demonstrate ADR's potential, with high settlement rates achievable through this approach. By adopting ADR, Pakistan can make its legal system more efficient and effective.

FACTORS AFFECTING JUSTICE SYSTEM: CHALLENGES FACED

The first and foremost factor of ADR affecting the justice system of Pakistan and has been a great challenge is that In Pakistan, court cases often take a long time to resolve, eroding trust in the legal system. A key factor is the high volume of lawsuits, including minor disputes that could be settled outside of court through negotiation or compromise, rather than relying on the judicial process. Secondly, delays in judicial process in Pakistan are often caused by the non-compliance with statutory provisions. Furthermore, the frequent resort to adjournments, strikes and boycotts by legal practitioners significantly contributes to delays in civil litigation. Such strikes, employed as a means of protest, severely disrupt court proceedings, thereby precipitating undue delays and an accumulation of pending cases, ultimately undermining the efficacy of the

judicial process and Lastly ,the inadequacy of judicial infrastructure, specifically the insufficiency of courts and judges, constitutes a paramount factor contributing to delays in civil litigation in Pakistan. The existing judicial framework is beset by a substantial shortage of judicial personnel and courtrooms, resulting in an overwhelming caseload. Consequently, interim matters and substantive proceedings are protracted, leading to inordinate delays in the adjudication of cases, thereby engendering frustration and erosion of confidence amongst litigants in the judicial system.¹⁹

RESEARCH QUESTION: ISSUE RAISED IN THE TEXTURE OF PAKISTAN

In the light of above discussion, it is hence contended that Alternative Dispute Resolution (ADR) is a widely recognized approach globally for resolving legal issues outside the traditional court system. It offers several benefits, including party control, confidentiality, and flexibility. ADR encompasses various methods such as negotiation, arbitration, mediation, and reconciliation, providing efficient and cost-effective solutions. With the assistance of impartial mediators or arbitrators, ADR facilitates equitable communication and enhances access to justice, serving as a valuable complement to conventional court systems.

Mediation, facilitated by an impartial mediator, facilitates the communication and consensus among conflicting parties, emphasizing confidentiality and adaptability²⁰. Arbitration, overseen by arbitrators, culminates in a legally enforceable determination and can be either ad hoc or institutional²¹. Negotiation entails the process of direct contact between involved parties, whereas conciliation has a resemblance to mediation, however, with the presence of a more proactive conciliator.²²

The main theme of this paper is to elaborate the substantial hurdles in order to integrate ADR into legal education in Pakistan is that of the traditional focus on litigation, limited institutional support, and lack of awareness about ADR's benefits. Law schools lack formal ADR training, qualified faculty, and practical learning opportunities. Outdated laws and cultural preferences for courtroom battles also hinder ADR's acceptance. Pakistan's traditional legal curriculum prioritizes courtroom litigation

over Alternative Dispute Resolution (ADR) methods. To modernize legal education, curriculum reform is necessary, requiring a shift in academic priorities, development of relevant course content, and faculty training in ADR practices. Despite challenges such as resistance from conservative academics and limited resources, integrating ADR is crucial to address judicial backlog and promote access to justice. By incorporating practical components like clinical education and simulation exercises, future lawyers can gain essential skills for efficient and amicable dispute resolution, aligning Pakistan's legal education with global best practices.

The adversarial training dominance , less ADR courses , conservative academic culture , limited faculty expertise , No link to Real-World ADR Processes, underdeveloped legal framework , limited funding for innovation , limited ADR research and judicial backlogs are some of the main challenges and obstacles for integration of ADR into legal education in Pakistan. There has been seen a growing recognition of the need of efficient , accessible and culturally sensitive dispute resolution mechanisms. Therefore , ADR must be positioned to play a pivotal role in shaping a better academic future in Pakistan. Within this context , the ongoing initiatives and curriculum reforms are no doubt paving a way for the enhancement of ADR mechanisms but still there are many barriers faced during the integration of ADR into legal education.

CRITICAL ANALYSIS WITH THE MECHANISM OF TURKEY, MALAYSIA, BANGLADESH:

Turkey's adoption of Alternative Dispute Resolution (ADR) procedures, particularly mediation, has yielded significant success. The 2012 Mediation Law marked a major milestone, transforming the legal landscape. Initially, only four cases underwent mediation in 2012, but over time, ADR has resolved numerous disputes. The law provides a framework for commercial mediation, including mediator roles, timelines, and agreements. The establishment of a Mediation Department has further promoted ADR, earning recognition and respect from the legal community, businesses, and the public. Today, mediation is a widely accepted method for resolving disputes outside of courts.

Along with this , Malaysia has successfully

integrated Alternative Dispute Resolution (ADR) into its legal system through public-private partnerships, comprehensive training programs, and promoting mediation as a culturally suitable method. The Arbitration Act 2005 and Mediation Act 2012 provide a framework for arbitration and mediation, ensuring enforcement and confidentiality. Malaysia has also established specific rules for specialized ADR areas, including construction adjudication, consumer dispute resolution, and Islamic banking and finance mediation, facilitating widespread acceptance and effective dispute resolution.

Bangladesh has effectively incorporated ADR into its legal framework through legislation and establishment of dedicated ADR institutions. The legal basis for arbitration in Bangladesh is provided by the Arbitration Act of 2001, which offers a comprehensive procedure for ADR. Additionally, the Bangladesh International Arbitration Centre has played a significant role in the development and expansion of arbitration. The success of Bangladesh can be ascribed to the proactive involvement of the government in fostering ADR, conducting public awareness initiatives, and incorporating ADR into the formal curriculum of legal education. ADR in Bangladesh can be traced back to conventional mechanisms of resolving conflicts, including village Courts and shalish, which are community-based arbitration processes. The necessity to establish a regulated and organized ADR system was conceived to offer accessible and efficient means of resolving disputes. The primary objective of the implementation of ADR procedures in Bangladesh is to mitigate the workload on the judicial system, decrease expenses associated with litigation, and support the amicable settlement of conflicts.²³

SUBMISSION OF WELLNESS NETWORK OF LAW TO LACC'S TO REVIEW ACADEMIC REQUIRMENTS: A PRECEDENT

In 2015, a group of law professionals submitted a proposal to the Legal Admissions Consultive Academy (LACC) in which there were some of the recommendations regarding changes to the academic requirements for becoming a lawyers. They advocated for a law curriculum that intentionally prepares students for success in law school and their future careers. A key part of this

is including Dispute Resolution (DR), specifically Alternative Dispute Resolution (ADR), as a core subject in law degrees to better equip students for the profession and that the participation in ADR processes is mandatory under legislation in many Australian jurisdictions which is only possible when it is made a compulsory part of the law course.

In result, The National Alternative Dispute Resolution Advisory Council (NADRAC) strongly advocates for the mandatory inclusion of Alternative Dispute Resolution (ADR) in law curricula, citing the need for better university training and ADR's importance in legal practice. NADRAC's research and reports emphasize that ADR should be a standalone, compulsory core subject and a prerequisite for admission to the legal profession, underscoring its significance in enhancing access to justice and promoting effective dispute resolution skills among future legal professionals.²⁴

RECOMMENDATIONS AND FINDINGS TO THE ISSUE: PRACTICAL FRAMEWORK

According to the history of a project in 2009, Jean Sternlight and John Lande, there can be three primary conclusions to it. Firstly, Law schools ought to augment Alternative Dispute Resolution (ADR) instruction to enhance student proficiency. Secondly, ADR should be comprehensively integrated into the law curriculum to illustrate its interconnection with other facets of legal practice and Lastly, The primary objective of ADR education should be to equip students with the requisite skills to effectively represent clients, acknowledging ADR's indispensable role in modern legal practice.²⁵ They also believe that ADR faculty can play a crucial role in enhancing it if ADR is integrated into legal education by filling gaps in traditional legal education through ADR instruction and supporting colleagues in integrating ADR into other courses, by sharing effective teaching methods that can benefit doctrinal and litigation skills courses and also by utilizing their mediation and consensus-building skills to promote more effective faculty collaboration and coordination.

Here are some of the recommendations which can be followed to overcome the issue while integrating ADR into legal education in Pakistan

•**Legislative support for ADR :**

Pakistan should enact comprehensive ADR legislation, providing a clear legal framework that ensures enforceability of ADR outcomes and establishes standards for practitioners. Existing laws require amendments to align with substantive and procedural law, and harmonization with the UNCITRAL model to foster a pro-arbitration jurisdiction.

•**Positive influence of Culture on ADR:**

Special measures should be taken to promote ADR methods that align with Islamic principles, enhancing cultural acceptance and trust in resolving financial and commercial disputes nationwide. This approach would leverage the cultural and religious context to increase the effectiveness and adoption of ADR practices into legal education.

•**Institutional Support & Infrastructure:**

There should be establish university-based ADR clinics or centers to provide hands-on experience Also the Partner with bar councils, courts, and mediation centers for internships and joint initiatives and the use technology platforms for virtual ADR training and simulations.

•**International Collaboration:**

There should be collaboration with international organizations like the ICC, UNCITRAL, CIArb etc as well as students shall join global legal education networks that emphasize ADR by using online learning platforms for ADR certifications and courses.

•**Public Awareness Campaigns:**

Public awareness programs in Pakistan should educate the general public, businesses, and legal experts about the benefits of Alternative Dispute Resolution (ADR), emphasizing its affordability, effectiveness, and confidentiality to increase understanding and adoption of ADR methods.

•**Enforcement Mechanisms:**

Efficient procedures should be developed to ensure the enforcement of ADR outcomes, including adherence to mediated settlement

agreements and arbitral rulings, thereby fostering trust in the efficacy of ADR mechanisms.

REFERENCES:

1. Mack, Kathy ~ "Integrating Procedure, ADR and Skills: New Teaching and Learning for New Dispute Resolution Processes" [1998] LegEdRev 4; (1998) 9(1) Legal Education Review 83
2. SMU Dedman , Volume 6 , Issue 5 , Article 6
3. Alternative Dispute Resolution Act , 2017
4. Indian Journal Of Law and Human Behaviour , Volume 6 , No 1 / January-June 2020
5. Acta-Islamia , Vol : 05 , Issue 1 , January - June 2017
6. Al-Quran 6 : 155
7. Al-Quran 4 : 35
8. Al-Quran 49 : 10
9. Al-Quran 4 : 114
10. Ibid 5
11. Legal Framework of Alternative Dispute Resolution Mechanism in Pakistan : A Comparative Study with Turkish , Malaysia and Bangladesh
12. Code of Civil Procedure (CPC) , 1908
13. Arbitration Act , 1940
14. Constitution Of Pakistan , 1973
15. Qanoon-e-Shahadat Order (QSO) , 1984
16. National Judicial Policy , 2009
17. Ibid 3
18. School for Law and Development / ADR / May 14 , 2025 by SLD
19. Research Journal of Pscycology , Volume 3 , No 1 , 2025 , Page 112-125
20. The Imperial Electricity Company Case V. Zhongxing Telecom Pakistan, 2019 CLD 609
21. Zafarullah khan V Government of Pakistan PLD 1998 Lahore 132
22. Shonk 2023 ; Shinde 2012
23. Ibid 11
24. The Australian Dispute Resolution Research Network Posted on 28/02/2016 By Racheal Field
25. The Legal Education , ADR and Practical Problem-Solving (LEAPS) Project : History and Concept , October 20 , 2023.