

Addressing Judicial Backlog in Pakistan: An Analysis of Court-Annexed Mediation Centers in Balochistan

Nasruminnallah Baloch¹

Sharafat A. Chaudhry²

Rabia Mustafa³

Abstract

The backlog of pending cases, which is increasing each year, has been a serious concern of the judiciary in Pakistan over the past several decades for several reasons, including the inordinate delays in the dispensation of justice, high litigation costs and more importantly, the growing societal frustration with the formal justice system. In order to address the backlog of pending cases, Alternative Dispute Resolution (ADR) mechanisms, particularly mediation, have been introduced as a more practical and efficient method for resolving disputes in society. The purpose of this study is to examine the effectiveness of mediation in addressing the backlog of court cases in Pakistan by analysing data from the Court-Annexed Mediation Centers (CAMCs) in six districts of Balochistan. The findings of this study clearly reveal that 76 percent of the cases referred to mediation centers were successfully resolved. In other words, the findings of this study

¹ The Author is an Additional Sessions Judge, Islamabad-West, and an Internationally Accredited Civil and Commercial Mediator.

² The Author is the founding Chairperson at the School for Law and Development and an Internationally Accredited Civil and Commercial Mediator.

³ The Author is a Senior Research Fellow at the School for Law and Development and an Internationally Accredited Civil and Commercial Mediator.

point toward the enormous potential the mechanism of mediation has to drastically reduce the backlog of pending cases through faster, cost-effective, and agreeable settlements compared to traditional court proceedings. This study recommends to institutionalize court-annexed mediation nationwide, launch public awareness campaigns, to educate citizens and lawyers about the potential benefits of mediation as a desirable dispute resolution mechanism, persuade through negotiation and counselling the disputing parties about the benefits of mediation, and conduct regular mediator training programs.

Key Words: Alternative Dispute Resolution, Mediation, Judicial backlog, Litigation, Court-Annexed Mediation Centers

Introduction

Disputes and conflicts frequently occur in human interactions and relationships. The nature of the issue at hand and the prevailing circumstances often determine how the disputing parties choose to resolve their disputes and conflicts. A number of options are available to them. The parties may try to put their disputes out of their minds, negotiate among themselves, ask a neutral third party to decide, mediate, arbitrate the issue at hand, file a case in a court of law, or turn to violence. Each of these options is a method of settling disputes and conflicts. However, in most societies around the world, the use of violence is not considered a legal and lawful method to resolve disputes in social relationships. In spite of the fact that a variety of options are available to individuals to settle their disputes, the available evidence suggests that most nations around the world have preferred and given more weight to court-based adjudication.

The preference for court-adjudication to settle their disputes is indicative of the desire of the disputing parties to seek enforceable justice. Seeking Justice is a crucial problem all over the world and is regarded as a basic human need. The access to

and provision of justice is the most important measure for evaluating the effectiveness of the government and assessing the state of a country. It is also necessary for allowing the enforcement of rights, ensuring good governance, achieving conflict resolution, and maintaining social harmony, safety, and long-lasting peace (Chaudhry, 2022). Justice delivery systems play a fundamental role in upholding the rule of law, ensuring civil order, and promoting social and economic development. However, in many countries, court-based adjudication has become increasingly overwhelmed, leading to delays and inefficiencies. Pakistan is no exception. Inordinate delays in adjudication of cases and inefficiencies of the existing judicial system have reached alarming levels in the country. The Law and Justice Commission of Pakistan (LJCP) publishes data regularly on the pending cases in Pakistani courts. The number of pending cases in various courts around the country runs in millions and is increasing each year. The persistent backlog not only undermines citizens' confidence in the judicial system but also impedes economic growth, disrupts social harmony, and erodes trust in public institutions (Bilal & Khokhar, 2021). In other words, the judicial system of Pakistan has run into a serious crisis.

Timely access to justice is recognised both nationally and internationally as a fundamental human right. The Constitution of Pakistan (1973) upholds the right to fair trial, dignity, and equality before the law through articles 4, 10A, 14, and 25, while Article 37(d) specifically mandates the provision of "inexpensive and expeditious justice" (Pakistan Const., 1973).

Similarly, international legal frameworks such as article 6(1) of the European Convention on Human Rights (ECHR, 1950), article 47 of the EU Charter of Fundamental Rights (EU Charter, 2000), article 14 (3)(c) of the International Covenant on Civil and Political Rights (ICCPR, 1966) and article 40 (2)(b)(iii) Convention on the Rights of the Child (CRC, 1989) emphasize the right to a fair and public hearing within a reasonable time.

In response to similar judicial crises, many countries have turned to Alternative Dispute Resolution (ADR) mechanisms such as mediation, arbitration, and conciliation to reduce the burden on formal courts and enhance access to justice. A landmark example is the United Kingdom's Access to Justice reforms led by Lord Woolf in the 1990s. These judicial reforms identified the problems with the prevailing judicial system, including excessive costs, delays, and complexities in the civil justice system, and recommended greater integration of ADR to expedite dispute resolution (Woolf, 1996; Jolowicz, 2000). Following these reforms, ADR practices were actively incorporated into the Civil Procedure Rules 1998, which encouraged courts to promote amicable settlements through mediation and other methods.

In Pakistan, justice has devolved into a fiction and an impossibility. Only the idea of postponed justice, which is a form of denied justice, is recognised in Pakistan. Justice is often delayed for several reasons, including judicial and procedural complicated processes, non-implementation of laws, and the attitudes of judges and attorneys. As more cases are added to the backlog of court cases each year, justice is being postponed, which has negative effects on society in general and litigants in particular (Bilal & Khokhar, 2021).

The formal approach of the disputing parties in Pakistan is to knock at the door of the courts to resolve their problems, but, with time, the options before the people have been broadened in their struggle to resolve their disputes. In Pakistan, however, despite the availability of ADR laws and provisions for ADR under various statutes, including the Code of Civil Procedure, 1908 (CPC), the burden on courts is increasing, resulting in the pendency of cases each year. In view of the prevailing crisis of the judicial system, magnified by an increasing backlog of pending cases in various courts, there is an urgent need to actively bring into use the available ADR mechanisms without further delay. The purpose of

this article is to examine the role of mediation, one of the ADR mechanisms, in reducing disputes in society and decreasing the judicial backlog of pending cases in various courts around the country. An effort is made in this article to achieve this objective through evaluating statistics of Court-Annexed Mediation Centers (CAMCs) in six districts of Balochistan Province. On the basis of these statistics, this article seeks to evaluate the extent to which CAMCs have been effective in reducing case pendency. This research article seeks to enhance not only our understanding of the prevailing trends in the judicial backlog but also of the effectiveness of mediation as an alternative mechanism for dispute resolution, which is likely to reduce such backlog. It is also expected that its conclusions and recommendations will help the legislative bodies and practitioners in the judicial system to adopt mediation practices at the national level as an integral part of our judicial system.

Methodology

This study essentially adopts a descriptive approach, using a reasonable amount of primary statistical data of mediation cases. The primary data have been obtained from CAMCs of six districts of Balochistan: Quetta, Sariat, Hub, Khuzdar, Pishin, and Loralai. The data collection periods vary across these districts based on the availability of the recorded mediation cases. In Quetta, the data of such cases were available for almost a span of two years. i.e., April 2023 to March 2025; and in the other five districts, the data were available for almost six months, i.e., October 2024 to March 2025. Microsoft Excel was used to analyze the collected data of the recorded mediation cases. In addition to using statistical data of the recorded mediation cases, this study used other documents, including relevant laws, case laws, judicial reports, etc., on the broader subject of ADR in Pakistan.

Literature Review

Various legal and social science scholars have produced a rich body of literature on different mechanisms which are used to resolve disputes among members of a society. Broadly speaking, one comes across two main categories of such legal mechanisms in the available literature. These include: a) litigation involving the court-adjudication through formal judicial system; and b) alternative dispute resolution. Both mechanisms are used to settle disputes among disputing parties in the world.

Litigation Versus ADR: Definitional Issues

There are few concepts in social sciences which lend themselves to consensus definitions. However, in legal and judicial system of a country, the superior courts are the final authority on the meaning of different concepts and their definition of a concept becomes a consensus definition for the courts adjudicating cases of disputing parties. In spite of this, legal scholars continue to argue about the proper definition of many legal concepts. Litigation is defined as the process of taking a dispute to a court of law. Friedman (1989) said that there can be no definition of litigation that commands a general agreement. However, he explained that in usual terms, litigation is such an action that is contested in a court of law. Moreover, according to him, the core meaning of the term litigation has three distinct elements, such as “first, a claim, that is, an active attempt to attain some valued end; second, a dispute or conflict, in other words, resistance to the claim; and third, the use of a specific institution, the court, to resolve the conflict or dispute” (p. 18).

ADR refers to a broad range of non-litigation dispute resolution techniques. ADR involves settling issues outside of the court system, while in some cases the court may order parties to engage in particular forms of ADR, such as arbitration. Also, although some ADR techniques provide a third party the

authority to settle the disagreement, other ADR techniques give the contesting parties that authority (Creative Commons, 2012).

The Alternate Dispute Resolution Act, 2017, which extends to the Islamabad Capital Territory, Pakistan, defines ADR in section 2(a) as:

“Alternative Dispute Resolution (ADR) means a process in which parties resort to resolving a dispute other than by adjudication by Courts and includes, but not limited to, arbitration, mediation, conciliation, and neutral evaluation.”

Negotiation, mediation, and arbitration are often used as ADR techniques. Mini-trials, mediation-arbitration hybrids (containing components of both), and collaborative goal-oriented processes are ADR techniques that are less frequently utilized. ADR is frequently used to settle conflicts between businesses, between employers and employees, and between businesses and customers. ADR is also applicable to a wide variety of other conflicts. ADR techniques can be utilized, for instance, in domestic legal matters like divorce or international legal matters such as transboundary contamination (Creative Commons, 2012).

The said Act defines mediation as follows:

“Mediation means a process in which a mediator facilitates dispute resolution by encouraging communication and negotiation between the parties, in order for them to arrive at a mutually satisfactory agreement [Section 2(i)].”

Liebmann (2000) also defined mediation as a process by which an impartial third party helps two or more parties who are in conflict work out how to resolve it. The terms of agreement are decided by the disputants, not the mediators. Mediation is a futuristic process rather than past behaviour.

The following four categories of ADR processes are found in the available literature:

- a) Adjudication-based: The job of a neutral third-party in adjudication-based processes is to issue a judgement on behalf of the parties following some sort of decision-

making procedure or hearing. By agreement or by operation of law, the decision binds the parties.

- b) Recommendation-based: A neutral third party does not decide for the parties in recommendation-based ADR processes. Instead, the neutral party will provide the rival parties advice on how to settle the conflict.
- c) Facilitation-based: The neutral third party has no official role in deciding how the disagreement among rival parties may be settled in facilitation-based methods. Instead, the neutral party facilitates the rival parties' efforts to resolve their differences through their own processes.
- d) Hybrid: Hybrid procedures integrate two distinct neutral roles, mediation and arbitration. Where a neutral third party first mediates between the parties and then tries to assist them in reaching a resolution is an illustration of a hybrid procedure. The third-party neutral will act as the arbitrator and conclude and settle a dispute on behalf of the parties if they are unable to come to an agreement (The World Bank Group, 2011).

In the past, litigation has been the main form of settling disputes around the world. When the cost of litigation skyrocketed and the workload became unmanageable, many countries decided to try other means of conflict resolution in society. The United States of America (USA) and England were among the pioneers who decided to give other means of conflict resolution more consideration to increase access to justice (McManus & Silverstein, 2011). The introduction of the Civil Rights Act of 1964, which many characterize as a landmark law in the field of civil and labour rights in the USA, coupled with the womens' rights movement and environmental problems in the 1960s, resulted in a surge of individual lawsuits, which flooded the courts and created major delays in settling disputes in the United States. This strengthened the case for using ADR in American

courts. In modern American courts, mediation is the ADR method that is most frequently employed (Goldberg, Sander, Rogers, & Cole, 2012). The Woolf Report on Access to Justice from 1995 and 1996 was the catalyst for the adoption of ADR in England. The report examined ways to increase court accessibility, dispute resolution efficiency, and access to justice. According to the report, the biggest causes of delays and a lack of access to justice were expenses, procedural complexity, and lawyer delay strategies. The report suggested, among other things, that ADR be given more attention and that using the court system should be a last resort after exhausting all other options (Genn, 2012).

ADR and Pakistan

Factors Contributing to Court Delays in Pakistan

According to the World Justice Project Rule of Law Index, 2024, the rank of Pakistan among 142 countries is 129, and its rank in civil justice is 128 out of 142 countries. The measures of civil justice systems assess the extent to which individuals can peacefully and effectively resolve their disputes through the civil justice system. This index evaluates the system's accessibility, affordability, and freedom from discrimination, corruption, and undue influence by public officials. It also examines whether court proceedings are timely and whether judgments are enforced properly. Additionally, it considers the availability, fairness, and efficiency of alternative dispute resolution options. The assessment of these factors places Pakistan at 128th out of 142 countries, indicating that the country is performing poorly in its civil justice system (World Justice Project, 2024).

According to one scholar, Pakistani courts not only demand constant attendance from the parties to the case; typically, it also takes a litigant approximately 72 court visits to resolve a dispute, and each court visit costs a litigant between 0.2 and 0.3 million. Regular court appearances can affect the parties to the lawsuit psychologically as well as financially (Khan, 2004).

In Pakistan, the delay in adjudication of disputes can be viewed as a human rights violation as a result of injustice. When parties enter a civil lawsuit and attempt to obtain justice, they become a victim of a tortuous, drawn-out process and have no idea when they will succeed in getting justice. The civil lawsuits are hardly decided within two to three years in Pakistan; in fact, such lawsuits typically last ten to fifteen years, and occasionally may even consume generations. In addition to the long, aggressive, and argumentative processes that differentiate between classes; the rich and the powerful class of society is less affected by such processes. This could result in an antagonistic procedural system that discourages certain groups of the population from approaching the courts and undermines the goals of civil justice. In Pakistan, the process of administering justice takes a very long time. Poor people often find it too costly to obtain justice, particularly in civil litigation (Zafeer, Xue, & Maqbool, 2020).

According to one study, even the matrimonial cases, which are separate from civil court trials and are subject to a special procedure of dispute resolution, face delays in Pakistan. The study examines recent cases from family courts to assess compliance with official time frames. The findings of this study show that divorce cases are the most common, and the fast-track procedure faces challenges. The completion of about 30 percent of such cases took more than six months. In fact, only 3 out of 26 cases were completed within six months for decree execution (Munir, 2021).

The timely completion of criminal cases, like civil cases, also faces challenges. Shabbir (2022) pointed out that the country's criminal justice system frequently takes a lengthy time, from the trial court to the Supreme Court, resulting in drawn-out litigation for the parties involved. Though Pakistan's judges are competent and impartial, they can only interpret pre-existing laws but cannot make new ones. In fact, the national legislature has the

power to make new laws and amend existing laws to address current issues. The obsolete and ineffective colonial-era legal framework for criminal proceedings that now exists contributes to the delays in the timely completion of criminal cases and the administration of justice. This situation makes it necessary to upgrade the judicial, legal, prosecution, and police systems for the timely completion of criminal cases and efficient crime control in the country.

Hassan, Ahmed, and Siddiqui (2021) also investigated the reasons and challenges of delayed justice in Karachi district courts, emphasizing the lack of quantitative research in this field. They used factor analysis to identify primary causes for delayed justice in these district courts and employed linear regression to determine their relative importance of these causes. The main causes of the delayed justice, in their analysis, included unnecessary adjournments and a lack of adequate skills among advocates and judges. In some areas, some peculiar reasons account for the delay in the adjudication of civil cases. For example, the fact that the merger of Swat with Pakistan brought a complex judicial system became the main cause of delay in justice, and it partly contributed to the rise of insurgency in the Swat area (Ali, Rahim, & Rehman, 2020).

According to another study, lengthy procedures, the absence of petitioners and respondents, carelessness on the part of court staff, a lack of judges and courts, frequent judicial transfers, and strikes by lawyers and their non-professional behaviour are the main causes of delays in the delivery of justice in Pakistan. It was recommended that traditional and social media would be helpful for a speedy trial and awareness (Hameed, Shafiq, & Zadi, 2022). Moreover, one of the characteristics of a functional state is indeed the provision of justice, or at least some degree of justice. Pakistan still has a long way to go to become a truly functional state. According to most of the litigants of civil cases, unending rounds of the courts, endless delay in dispensation of justice, and

mounting legal expenses obviate Pakistan from becoming a modern functional state with an efficient judicial system (Editorial, 2021).

The available facts and figures provide robust empirical support to the literature discussed above on the causes of delays in the delivery of justice in Pakistan. The statistical analysis of the court cases clearly shows that the pendency of cases is increasing day by day at all levels of the judicial system. In light of the foregoing discussion, one can safely recommend several measures that can address the problem of the backlog of cases in the country. Pakistan needs to establish more special courts to overcome the problem of a massive backlog of cases. Increasing the number of judges and courts across provinces is essential for the timely delivery of justice and clear the existing backlog of cases. Learning from countries like Australia and Malaysia, Pakistan should implement modern judicial systems, including pre-trial processes and alternative dispute resolution, to effectively reduce the massive case backlogs. Malaysia's successful adoption of pre-trial processes serves as a model for Pakistan to improve its judicial system (Ali & Hassan, 2022).

Judicial Backlog in Pakistan: Current Situation

The case backlog has been a serious headache for national courts at all levels for the past several decades in Pakistan. In spite of sporadically showing concern and taking some measures to reduce the backlog of pending cases, the relevant judicial and state functionaries have not achieved any notable success so far in this regard. The available facts and figures of the backlog of pending cases in a diverse range of courts belie any claim of meaningful success in reducing the number of pending cases and providing relief to litigants in the form of efficient adjudication of their cases.

The Law and Justice Commission of Pakistan released the following statistics in its bi-annual report (July to December), "Judicial Statistics of Pakistan 2023," which provides an accurate

representation of the burden of pending cases on a diverse range of Pakistani courts:

Court	Pending Cases (Start)	New Cases Filed	Cases Disposed	Pending Cases (End)	% Increase
Supreme Court of Pakistan	52,487	20,827	17,153	56,161	7.00%
Federal Shariat Court	103	77	95	85	-17.48%
All High Courts	329,918	236,061	224,248	341,817	4.00%
District Judiciary	1,766,625	4,221,485	4,176,130	1,858,460	5.20%
Grand Total	2,149,133	4,478,450	4,417,626	2,256,523	5.00%

(Law & Justice Commission of Pakistan, 2023).

The judicial statistics in the above table highlight a continuing increase in case pendency across the courts in Pakistan. According to the data, the total number of pending cases stood at 2,256,523, reflecting an overall 5 percent increase compared to the previous reporting period. Throughout the second half of 2023, courts across the country received 4,478,450 new cases while managing to dispose of 4,417,626 cases. Despite the high disposal rate, the continuous influx of new cases resulted in a further increase in the backlog. A look at the court-wise breakdown clearly reveals that most of the national caseload is on the shoulders of the district courts. By the end of 2023, the caseload of district courts accounted for 1,858,460 pending cases, representing 82 percent of the total pendency. The situation in the High Courts across the country was relatively less severe, with 341,817 pending cases, which constituted 15 percent of the total backlog. At the apex level, the Supreme Court of Pakistan had 56,161 pending cases, which made up 3 percent of the total case pendency. The Federal Shariat Court also had its little share in the backlog with 85 pending cases during this period.

In terms of percentage change, the Supreme Court recorded a 7 percent increase in its pending caseload, the highest among all tiers of national courts. Of all levels of national courts, the

Federal Shariat Court achieved a relatively better disposal rate, although its overall caseload remains very small as compared to other national courts. It witnessed a net 17.48 percent decline in case pendency. The High Courts experienced a 4 percent increase in pending cases, while the District Judiciary's case pendency grew by 5.20 percent. The increase in the caseload of the district courts is the real concerning factor because it is already carrying a disproportionately huge burden of pending cases. In fact, being the place where an ordinary case is instituted for the first time, the district courts, disproportionate burden of the caseload of district courts is no surprise. In fact, only a small portion of cases which are instituted before the district courts reach the apex court.

Legal Framework of ADR Pakistan

Pakistan has a growing framework of federal and provincial laws governing ADR, aimed at offering effective alternatives to formal court litigation. At the federal level, the Alternate Dispute Resolution Act, 2017 provides a legal basis for ADR processes. Some provinces have also enacted their statutes, including the Punjab Alternate Dispute Resolution Act, 2019, the Khyber Pakhtunkhwa Alternate Dispute Resolution Act, 2020, and the Balochistan Alternate Dispute Resolution Act, 2022. In addition, the Code of Civil Procedure, 1908 incorporates ADR provisions under section 89-A. Moreover, section 345 of the Code of Criminal Procedure, 1898 allows compoundable criminal offences to be settled amicably between the complainant and accused with the court's permission.

Sector-specific provisions also exist in other legislations. For instance, section 134-A(1) of the Income Tax Ordinance, 2001 allows aggrieved persons facing tax liabilities to request the Federal Board of Revenue to appoint a committee for dispute resolution, barring cases under criminal proceedings. Sections 276 to 278 of the Companies Act, 2017 accommodate mediation and arbitration mechanisms in resolving company and commercial

matters. Furthermore, article 163 of Qanun-i-Shahadat Order, 1984, sections 96-99 of Local Government Act, 2013, section 25 of NAB Ordinance, 1999, Muslim Family Laws Ordinance, 1961, and Federal Excise Act, 2005, authorize mediation and arbitration processes to facilitate the resolution of disputes outside the formal courts.

Various judgments of the superior courts of Pakistan emphasize the importance and need to adopt ADR methods in the country to resolve conflicts. In the case Province of Punjab through *Secretary C&W, Lahore vs. M/s. Haroon Construction Company*, the Supreme Court of Pakistan, advocated for a ‘pro-mediation bias’, encouraging courts to favor mediation over litigation. The Court highlighted mediation’s efficiency, cost-effectiveness, and potential for amicable settlements, contrasting it with the adversarial nature of traditional litigation.⁴

In a case titled *Kauser Rana Resources (Pvt) Ltd. vs. Qatar Lubricants Company W.L.L.* (January 2025), the Supreme Court of Pakistan emphasized the importance of arbitration as a preferred dispute resolution mechanism. The Court set aside a previous judgment and referred the matter to arbitration, underscoring that respecting arbitration agreements is crucial for reducing case backlogs and fostering economic growth. The judgment states, “Courts should adopt a resolute stance of noninterference, encouraging arbitration and other forms of alternative dispute resolution, such as mediation, as the preferred modes of resolving disputes.”⁵

In another judgment in the case titled *Faisal Zafar and another vs. Siraj-ud-Din and others*, the Lahore High Court (Rawalpindi Bench) emphasized the “Doctrine of expeditious resolution of corporate disputes through mediation.” The

⁴ Secretary C&W, Lahore vs. M/s. Haroon Construction Company, 24 SCMR 947

⁵ Kauser Rana Resources (Pvt) Ltd. vs. Qatar Lubricants Company W.L.L., C.P.L.A. 4468/2024

judgment suggested that corporate organizations may resolve corporate and commercial disputes effectively through the mediation process.⁶ In a case titled *Strategic Plans Division and another vs. Punjab Revenue Authority and others*, the Lahore High Court (Rawalpindi Bench), while stressing the importance of ADR, held that resolving the present matter through **ADR** is appropriate and timely. This approach would offer the parties an opportunity to settle the dispute in a manner that ensures **confidentiality, trust, and adherence to legal provisions**.⁷

In a recent case titled *Ishfaq Ahmed (Petitioner) v. Mushtaq Ahmed, etc. (Respondent(s))*, the Supreme Court of Pakistan explained in detail how artificial intelligence (AI) can be used as an innovative tool in the judiciary, its limitations, and future considerations. Shedding light on the importance of the evolving role of AI in the legal profession, it raises an important question: What will be left for lawyers to do? Despite AI's increasing capabilities, several key functions remain irreplaceable by AI, particularly in the area of ADR. These processes rely heavily on human qualities such as emotional intelligence, empathy, and human interaction. As AI continues to handle more repetitive and fact-based tasks, lawyers can pivot toward mediation and ADR, positioning themselves as experts in these fields. Ultimately, while AI transforms many aspects of legal practice, the future of dispute resolution may lie in mediation, where lawyers can offer some value that AI cannot replace.⁸

Why ADR?

It is universally accepted that the adversarial system of justice is not only incredibly stressful for everyone who is involved in it, but is also time-consuming, frustrating, tiresome, and consumes many resources and effort.

⁶ Faisal Zafar and another vs. Siraj-ud-Din and others, 2024 CLD 1.

⁷ Strategic Plans Division and another vs. Punjab Revenue Authority and others 2024 LHC 2525

⁸ Ishfaq Ahmed (Petitioner) v. Mushtaq Ahmed, etc. (Respondent(s)), C.P.L.A. No. 1010-L/2022

In the ADR mechanism, contracting parties frequently use arbitration as a means of resolving disputes. If a contract contains an arbitration provision and a dispute occurs, an impartial arbitrator may issue a decision that is legally binding (an arbitration award). Arbitration has benefits such as upholding the parties' contractual freedom, maintaining confidentiality, saving money on legal costs, and possibly less demanding in terms of discovery of documents than a court trial. Arbitration is used to settle a variety of legal issues, including employment and labour conflicts, conflicts in business (especially if the contract has a mandatory arbitration clause), and religious law-governed disputes (Harvard Law School Library, 2022).

There are some tangible benefits of using mediation instead of initiating formal litigation. These tangible benefits must be considered before taking any decision in seeking to resolve disputes.

Cost Effectiveness and Time-Saving

Benjamin Franklin rightly said in the essay "Advice to a Young Tradesman (1748)" that "time is money." This saying becomes prophetic when it comes to legal disputes. It is an admitted fact that the litigation would be more expensive and consume more time. As it involves many court proceedings and sometimes stretches over many years. Whereas, the process of mediation is actually cost-effective and involves fewer meetings, and also requires less time. It has been observed that the mediation process is faster than going to court. In court proceedings, people may be fed up by facing a protracted trial that even stretches for years, as it is generally the slowest process, whereas mediation is a fast and reliable process. It is also important to mention that mediation is a process collaborative approach where parties work together for the resolution of their dispute, while in court proceedings, the parties do not enjoy such privilege (Khadem & Lahijani, 2024).

Confidentiality and Privacy

Confidentiality and privacy seem to be the same thing, but there is a subtle difference between these two concepts. Privacy concerns people, whereas confidentiality concerns data. In other words, the people who conflict with each other wish to keep their information secret, and for this purpose, mediation is the best answer. Confidentiality is crucial in dispute resolution as it allows parties to freely explore solutions without fear of their proposals or statements being disclosed. This protection encourages open discussion, as parties know their efforts would not be used against them in a court of law or arbitration if settlement talks fail, ultimately increasing the chances of resolving disputes peacefully. It is an admitted fact that court proceedings are always conducted in the open court, and usually, sensitive information becomes a matter of public record. This not only tarnishes the reputation of the parties but also results in unwanted publicity. However, the mediation is a private and confidential process. The fact that negotiations and the settlements made through the mediation process are always kept secret allows a party to protect their reputation and maintain their privacy (Shiravi & Abdollahi, 2017).

Independence and Impartiality

Legal proceedings curtail the partiality of contesting parties over the resolution of disputes. Once contesting parties get stuck in the court proceedings, then they will definitely lose the seat of power, as it is such parties who have given authority to the court to decide the matter. It is the judge who decides your case, either way. On the contrary, in mediation, both parties enjoy the privilege of the seat of power, as both parties would have been allowed to discuss and reach any settlement that suits both parties. It is the collaborative approach that always makes room for creative solutions that would not be possible in legal proceedings. Mediation is a process in which the parties enjoy complete independence and freedom, even to leave the process at

any stage or to reach any agreement on any terms and conditions that suit the parties according to their specific needs and interests (Korobkin, 2005).

Less Strain and Psychological Toll

Unfortunately, the prevailing adversarial system of justice always results in mental stress and psychological toll on the parties who are involved in any legal proceedings especially in matrimonial disputes, and this adversarial system has created room for people to opt for any other option that lessens strain and psychological toll. On the other hand, the mediation process has a more collaborative approach, which usually consumes less time and lessens the psychological toll on disputants. When the disputants choose to opt for the option of mediation in resolving their specific problem, then the parties come within the purview of a conducive atmosphere in which every party is allowed to discuss freely and openly, and reduce their tension. The process of mediation is conducted in such a way that the parties have a chance to meet with the mediator separately and in a joint session. Each party is encouraged to tell their own story in their own style, and the professional mediator acknowledges the emotions of each party, which results in an amicable agreement. Mediation addresses the root cause of problems between disputing parties and comes up with a solution that suits their unique needs and satisfies their interests in the shortest possible time (Arif, 2021).

Less Confrontational

Usually, in legal battles, the parties to the conflict tend to be at daggers drawn; they are likely to develop acute dislike and hatred toward each other. Whereas, the process of mediation always proves to defuse tension as the mediation process is hard on problems and soft on the people. The delicate line of action in the mediation process always brings fruit to the parties. It acts in a way that, on the one hand, the open discussion emits emotions in

the parties while, on the other hand, it brings positive results as well as soothing effects (Charkoudian, Eisenberg, & Walter, 2019).

Protecting Future Relationships

The legal battle between the parties is stressful for everyone involved and aggravates the mental strain, and takes a heavy psychological toll. In addition, it also poses another grim picture to bring the parties at daggers drawn, which resultantly severs the future relationship between the parties involved. The legal proceedings always divide people and increase hostility between them. In most cases, the people engaged in legal proceedings against each other live in the same communities and have to continue interacting with each other on different occasions. Their cooperative interaction is important for societal harmony. As compared to legal proceedings, which are divisive in nature, mediation is a process that always is hard on the problems but soft on the people. The mediation process always focuses on the future and buries the hatchet of the past. It seeks to come up with a solution to a problem and does not end the relationship among the people involved. It is usual that in the mediation process, the relationship is protected while litigation severs the relationship (Brown, 2022).

Court-Annexed Mediation Centers in Balochistan Districts: An Analysis

A reasonably clear picture emerges out of the data collected from the CAMCs operating in the six districts of Balochistan. The data of these mediation centers cover the period from April 2023 to March 2025 and provide a clear insight into different areas, including referrals, successful mediation cases, failed attempts, and pending matters. In short, these data provide valuable insight into the performance and effectiveness of CAMCs in promoting mediation, reducing judicial backlog, and facilitating timely and agreeable settlements.

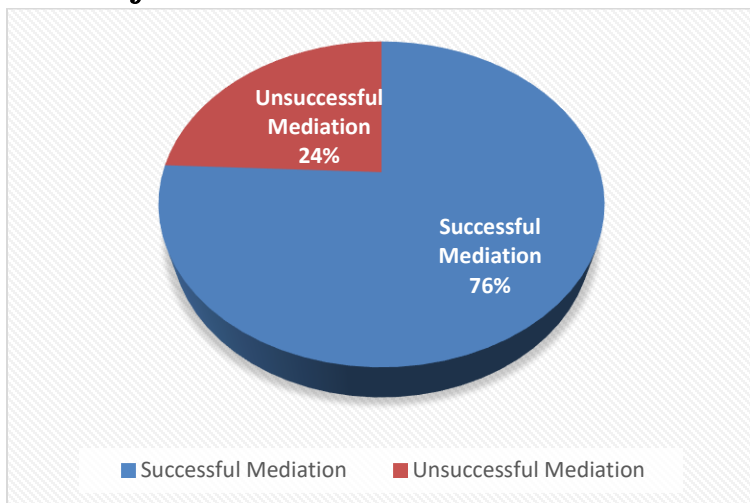
**Table 1: Consolidated Data Statement of CAMCs Balochistan
(April 2023 to March 2025)**

	Cases Referred to CAMC	Cases Disposed of/ Successful Mediation	Mediation Failed/ Cases Referred Back to Court	Cases Still Pending
Quetta Sessions Division (April 2023-March 2025)	1253	946	288	19
Sairab Sessions Division (October 2024- March 2025)	126	90	23	13
Hub Sessions Division (October 2024- March 2025)	92	60	20	12
Khuzdar Sessions Division (October 2024- March 2025)	141	65	64	12
Pishin Sessions Division (October 2024- March 2025)	106	74	9	23
Loralai Sessions Division (October 2024- March 2025)	39	34	3	2
Total Cases	1757	1269	407	81

Table 1 presents a consolidated overview of mediation cases handled by six CAMCs in Balochistan over the period from April 2023 to March 2025. It details the total number of cases referred, those successfully disposed of through mediation, cases where mediation failed and were referred back to the court, and cases still pending as of the reporting date. The **Quetta Sessions Division's** data covers two years from April 2023 to March 2025, while data from **Sariab, Hub, Khuzdar, Pishin, and Loralai**

Sessions Divisions covers six months, from October 2024 to March 2025. A total of 1,757 cases were referred to these mediation centers, out of which 1,269 were successfully resolved, 407 were referred back to court, and 81 remained pending. Quetta handled the largest volume of cases due to its extended data period. Notably, the relatively small number of pending cases (81 out of 1,757) reflects efficient case management in most centers. However, the number of cases (i.e., 407) referred back to court indicates that there is still a lot of room for improvement in achieving agreeable settlements.

Figure 1: Success Ratio of CAMCs in Balochistan



The above pie chart shows that 76 percent of the total number of cases were successfully mediated in all six districts of Balochistan through CAMCs. In only 24 percent of cases, mediation was unsuccessful and such cases were referred back to the traditional court system.

Table 2: District-Wise Successful Mediations in Civil / Criminal Cases by CAMCs, Balochistan

	Civil cases	Criminal cases	Disposed of
Quetta Sessions Division	241	705	946
Sairah Sessions Division	3	87	90
Hub Sessions Division	19	41	60
Khuzdar Sessions Division	24	41	65
Pishin Sessions Division	18	56	74
Loralai Sessions Division	2	32	34
Total Disposed Cases	307	962	1269

Table 2 breaks down the **1,269 successfully mediated cases in terms of their nature, i.e. civil and criminal**. It is important to make a distinction between **civil and criminal matters** across the six Balochistan CAMCs during their respective reporting periods. Out of the total, **307 cases were civil and 962 were criminal cases**. The majority of successful mediations in all divisions involved criminal disputes, with Quetta leading both in civil (241 cases) and criminal (705 cases) categories. The data reflect a clear dominance of criminal case mediations in the CAMCs' operations, accounting for approximately **76 percent of total successful mediations**. This distribution aligns with legal provisions allowing mediation in compoundable criminal offences and reflects community preference for resolving such matters outside the courtroom.

Findings

The data from the CAMCs in Balochistan, covering the period from April 2023 to March 2025, presents a positive outlook on the use of mediation as an alternative dispute resolution mechanism. The data indicate a generally efficient system with timely case processing and strong mediation outcomes, especially considering that six of the centers reported data from only six months.

The Quetta District accounted for the majority of cases, reflecting its extended operational timeline. Loralai stood out with the highest success rate and minimal failures, showcasing exemplary mediation practices. In terms of the nature of cases, criminal disputes dominated the mediation docket, accounting for 76 percent of all successfully mediated matters. The distribution also suggests that while civil disputes are mediated, the current mediation practice in Balochistan's CAMCs predominantly focuses on criminal matters.

Discussion

The adversarial system of justice has already played havoc with the disputants, as it puts a heavy mental strain on them and increases the backlog of cases in the courts. This backlog has multiplied the agonies of the litigants in terms of expenses, time, and mental trauma.

The judiciary data, as stated above, reveals that nearly 4.41 million cases have been disposed of, which is a significant success for Pakistani courts. However, nearly 2 million cases remain pending in these courts collectively. This means that, regardless of the courts' success in deciding millions of cases each year, an almost equal number of new cases are being filed, creating a continuous backlog and placing an increasing burden on the judiciary. It also indicates that the backlog is likely to increase each year rather than decrease.

Moreover, one pertinent point to discuss is that when a case is decided at the district level, it does not always mean the dispute has concluded. The case may proceed to higher stages of the judiciary. A single dispute between parties can be decided multiple times within the traditional adversarial litigation system due to the availability of multiple forums, such as the High Court and the Supreme Court.

In contrast, if a dispute is resolved through the ADR system, as shown in the data from CAMCs of Balochistan districts, the

matter is settled once and for all at a single forum. This reduces the pendency of cases across multiple judicial forums. Also, the process of mediation is a delicate process that ultimately prevents the wastage of financial resources of litigants, reduces the mental stress and emotional toll, preserves relationships, and has control over the resolution. It also maintains the confidentiality and privacy of the people, as well as brings a higher compliance rate. The collaborative approach of the mediation process brings the disputants to the table. A mediator may help parties identify the root cause of their problems and help them solve their problems themselves with confidence and authority over the dispute. The mediator helps the parties to recognise their real interests and positions and strategically assists the parties to move from their positions to their real interests for the sake of dispute resolution. Above all, mediation can be the saviour to society and replace the outdated adversarial justice system with a speedy resolution of problems. In other words, the mediation process can potentially promote conflict resolution tendencies and contribute to social peace and harmony in society.

Recommendations

In light of the findings from six districts of Balochistan, it is recommended that mediation be institutionalized across Pakistan through the establishment of court-annexed mediation centers in every district. The need is to focus on the effective functioning of the existing mediation centers. To support this initiative, the existing legal and policy framework for mediation should be strengthened, with a focus on effective implementation. Capacity building is equally essential; regular training programs for mediators and judges should be introduced to enhance their skills, understanding, and execution of mediation practices. Additionally, public awareness campaigns must be launched to educate citizens, lawyers, and disputing

parties about the benefits of mediation, particularly its potential for providing quicker, cost-effective, and amicable settlements. This is especially important as court data and reports from mediation centers indicate that a significant portion of the public remains either unaware of mediation services or lacks trust in the mediation process.

To further reduce the judicial backlog, it is recommended that mediation be made a mandatory first step for specific categories of civil, family, commercial, and compoundable criminal disputes. A centralized system for data collection and reporting should also be developed to maintain consistent, transparent records of mediation outcomes nationwide. This would enable policymakers and the judiciary to analyse why cases are not being referred to mediation centers and identify ways to improve their functioning. Additionally, promoting mediation at the pre-litigation stage could help resolve disputes before they enter the formal judicial system, reducing court congestion. Lastly, integrating ADR, particularly mediation, into the legal education curricula is essential to equip future legal professionals with the skills and mindset necessary to effectively utilize and advocate for alternative dispute resolution mechanisms in Pakistan.

References

- Ali, D. S., & Hassan, D. M. (2022). An Evaluation of Pending Cases in the Judiciary of Pakistan: Figures and Statistics. *Pakistan Social Sciences Review*, 592-602.
- Ali, H., Rahim, N., & Rehman, A. (2020). Delay in Justice is an Indicator in the Promotion of Terrorism: A Case Study of Swat. *Global Legal Studies Review*, 29-34.
- Arif, M. (2021). Assessing the Efficiency of ADR Mechanisms in Matrimonial Dispute Resolution: Empirical Findings. *International Journal of All Research Education and Scientific Methods (IJARESM)*, 4271-4286.
- Bilal, D. M., & Khokhar, F. (2021). Justice Delayed or Denied: The Myth of Justice in Pakistan. *Journal of Law & Social Studies (JLSS)*, 124-132.
- Brown, C. (2022, April 09). *Preservation of Relationships in ADR*. Retrieved from Brown Law PLLC:

https://brownfirm.law/glossary/preservation-of-relationships-in-adr/?utm_source=chatgpt.com

- Charkoudian, L., Eisenberg, D. T., & Walter, J. L. (2019). What works in alternative dispute resolution? The impact of third-party neutral strategies in small claims cases. *Conflict Resolution Quarterly*, 101-121.
- Chaudhry, A. S. (2022). *Law and Development: An Alternattive Approach to Measuring Human Development (2nd ed.)*. Islamabad: Iqbal Institute for Research and Dialogue (IRD).
- CRC. (1989). *Convention on the Rights of the Child*. New York City: General Assembly .
- Creative Commons. (2012). *Business and the Legal and Ethical Environment*. Creative Commons.
- ECHR. (1950). *Convention on Human Rights and Fundamental Freedoms*". European Convention on Human Rights.
- Editorial. (2021, June 29). *Backlog in Courts*. Retrieved from DAWN: <https://www.dawn.com/news/1632089>
- EU Charter. (2000). *Charter of Fundamental Rights of the European Union*. EU Charter of Fundamental Rights.
- Friedman, L. M. (1989). Litigation and Society. *Annual Review Social*, 17-29.
- Genn, H. (2012). What Is Civil Justice For? Reform, ADR, and Access to Justice. *Yale Journal of Law & the Humanities*, 396-417.
- Goldberg, S. F., Sander, F., Rogers, N., & Cole, R. (2012). *Dispute Resolution: Negotition, Mediation, Arbitration and Other Processes*. New York: Wolters Kluwer Law & Business.
- Hameed, U., Shafiq, M. S., & Zadi, K. I. (2022). Role of Media to Overcome Delay in Justice: Pakistani Prospective. *Journal of Development and Social Sciences*, 1007-1014.
- Harvard Law School Library. (2022, November 01). *Alternative Dispute Resolution Research*. Retrieved from Harvard Law School Library: <https://guides.library.harvard.edu/c.php?g=310591&p=2072339>
- Hassan, R. S., Ahmed, N., & Siddiqui, F. A. (2021). Judicial System and Public Policy: Strategy for Expeditious Disposal of Backlog. *JISR management and social sciences & economics*, 193-205.
- ICCPR. (1966). *International Covenant on Civil and Political Rights*. Geneva: General Assembly.
- Jolowicz, J. A. (2000). 19 - The Woolf reforms. In J. A. Jolowicz, *On Civil Procedure* (pp. 386-398). Cambridge University Press.
- Khadem, H., & Lahijani, A.-S. (2024). Characteristics of Alternative Dispute Resolution Methods in the Regulations of the International Chamber of Commerce. *Interdisciplinary Studies in Society, Law, and Politics*, 156-165.
- Khan, F. S. (2004). *Quest for justice : Judicial system in Pakistan*. Islamabad: The Network Publications.

- Korobkin, R. B. (2005). The Role of Law in Settlement. In (J. -B. Michael L. Moffit & Robert C. Bordone, *The Handbook of Dispute Resolution* (pp. 254-276). UCLA School of Law.
- Law & Justice Commission of Pakistan. (2023). *Judicial Statistics of Pakistan 2023*. Islamabad: Law & Justice Commission of Pakistan.
- McManus, M., & Silverstein, B. (2011). .Brief History of Alternative Dispute Resolution in the USA. *South-East European Division of the World Academy of Art and Science*, 100-105.
- Munir, M. (2021). Fast-track Procedure and Slow-track Results: Time Frame of Family Law Case Disposals in Pakistan. *LUMS Law Journal*, 43-60.
- Pakistan Const. (1973). The Constitution of the Islamic Republic of Pakistan: art. 4, 10, 10A, 14, 25, 37(d).
- Shabbir, S.S. (2022, May 01). *Delay Defeats Criminal Justice in Pakistan*. Retrieved from SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4097930
- Shiravi, A., & Abdollahi, M. J. (2017). Privacy and Confidentiality in Alternative Dispute Resolution Methods. *International Journal of Economic Perspectives*, 835-844.
- STA Law Firm. (2018). *UK: Lord Woolf's Reforms And Civil Procedure Rules 1998*. STA Law Firm.
- The World Bank Group. (2011). *Alternative Dispute Resolution Center Manual: A Guide for Practitioners on Establishing and Managing ADR Centers*. Washington: The World Bank Group.
- Woolf, H. (1996). *Access to justice: final report to the lord chancellor on the civil justice system in england and wales*. London: HMSO.
- World Justice Project. (2024). *WJP Rule of Law Index: Pakistan*. Retrieved from World Justice Project: <https://worldjusticeproject.org/rule-of-law-index/country/2024/Pakistan/Civil%20Justice/>
- Zafeer, H. I., Xue, H., & Maqbool, S. (2020). Delaying Factors Regarding Civil Justice in Pakistan (Lower Courts). *Journal of Humanities and Social Sciences Studies (JHSSS)*, 15-22.