



SONARGAON UNIVERSITY

RESEARCH MONOGRAPH

"Alternative Dispute Resolution: The Appropriate Civil Justice in Bangladesh"

Submitted To

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LETTER OF TRANSMITTAL

Date: 25 June, 2026

To

Sharmin Jahan Runa

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Subject: Submission of Research Monograph on Alternative Dispute Resolution: The Appropriate Civil Justice in Bangladesh.

Madam,

With due respect, I have the pleasure to submit my thesis entitled “Alternative Dispute Resolution: The Appropriate Civil Justice in Bangladesh” in partial fulfillment of the requirements for the degree of LL.M. under the Department of Law, Sonargaon University .

This research has been conducted under your valuable supervision and guidance. During the preparation of this thesis, I have attempted to examine the legal framework, effectiveness, challenges, and future prospects of Alternative Dispute Resolution (ADR) in Bangladesh as an appropriate mechanism for ensuring civil justice.

I sincerely appreciate your guidance, encouragement, and support throughout the completion of this study. I shall be grateful if you kindly accept this thesis for evaluation.

Yours faithfully,

Ayesha Yesmin Asha

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DECLARATION

I hereby declare that the thesis entitled “Alternative Dispute Resolution: The Appropriate Civil Justice in Bangladesh” is an original work carried out by me under the supervision of Sharmin Jahan Runa, Assistant Professor and Department Head, Department of Law, Sonargaon University .

I further declare that this thesis has not been submitted, either in whole or in part, to any other university or institution for the award of any degree, diploma, or other academic qualification. All sources of information used in this study have been duly acknowledged and referenced.

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SUPERVISOR'S CERTIFICATION

This is to certify that the thesis entitled “Alternative Dispute Resolution: The Appropriate Civil Justice in Bangladesh” submitted by Ayesha Yesmin Asha, Student ID LLM2501032011, Department of Law, Sonargaon University , has been carried out under my supervision and guidance.

To the best of my knowledge, this research is an original work and is worthy of submission for the partial fulfillment of the requirements for the award of the degree of Master of Laws (LL.M.).

I wish the candidate every success in his/her academic and professional career.

Sharmin Jahan Runa

Assistant Professor and Department Head

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Date: 25 June, 2026

ACKNOWLEDGEMENT

All praise and gratitude are due to Almighty Allah, whose blessings, mercy, and guidance enabled me to complete this thesis successfully.

I would like to express my deepest gratitude to my respected supervisor, Sharmin Jahan Runa, Assistant Professor and Department Head, Department of Law, Sonargaon University (SU), for her valuable guidance, constructive suggestions, encouragement, and continuous support throughout this research. Her supervision greatly contributed to the successful completion of this thesis.

I am also grateful to all the teachers of the Department of Law for their academic support and inspiration. My sincere thanks go to my family members and well-wishers for their constant encouragement, patience, and support during the preparation of this study.

Finally, I acknowledge all authors, researchers, and institutions whose works have contributed to the completion of this thesis.

ABSTRACT

Alternative Dispute Resolution (ADR) has emerged as an important mechanism for ensuring efficient, accessible, and cost-effective justice throughout the world. In Bangladesh, the traditional civil justice system faces significant challenges, including case backlogs, procedural delays, and high litigation costs. Consequently, ADR has gained increasing recognition as a practical alternative to conventional court-based dispute resolution.

This thesis examines the concept, development, legal framework, and effectiveness of ADR in Bangladesh. The study analyzes ADR mechanisms such as negotiation, mediation, arbitration, and conciliation and evaluates their role in promoting civil justice. Particular attention is given to relevant legal instruments, including the Code of Civil Procedure 1908, Arbitration Act 2001, Family Courts Ordinance 1985, Labour Act 2006, Village Court Act 2006, and Money Loan Court Act 2003.

The research adopts a doctrinal methodology based on primary and secondary legal sources. The findings reveal that ADR significantly contributes to reducing litigation costs, ensuring speedy dispute resolution, preserving relationships, and decreasing court congestion. However, challenges such as lack of public awareness, inadequate institutional support, shortage of trained professionals, and enforcement difficulties continue to affect its effectiveness.

The study concludes that ADR has substantial potential to function as an appropriate civil justice mechanism in Bangladesh, provided that necessary legal, institutional, and policy reforms are implemented.

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Chapter One

Introduction

1.1 Background of the Study

The administration of justice is one of the fundamental functions of a modern state. A fair, effective and accessible justice system ensures the protection of rights, maintenance of social order and promotion of public confidence in the rule of law. In Bangladesh, however, the traditional court-based civil justice system has long been criticized for excessive delays, procedural complexities, high litigation costs and a large backlog of cases. These problems often discourage litigants from seeking judicial remedies and undermine public trust in the legal system.

According to judicial statistics, thousands of civil cases remain pending in different courts across Bangladesh for years. The prolonged nature of litigation not only increases the financial burden on the parties but also creates psychological stress and social tensions. As a result, many people, especially those from disadvantaged and rural communities, are unable to access justice effectively.

In response to these challenges, Alternative Dispute Resolution (ADR) has emerged as an important mechanism for resolving disputes outside the traditional courtroom setting. ADR refers to a range of processes through which disputes are settled without a formal judicial determination. Common forms of ADR include negotiation, mediation, conciliation and arbitration. These mechanisms are generally faster, less expensive and more flexible than traditional litigation.

The concept of ADR is not entirely new in Bangladesh. Informal dispute resolution mechanisms have existed for centuries through village mediation (shalish) and community-based settlement practices. In recent decades, ADR has also gained formal legal recognition through various legislative measures, including the Code of Civil Procedure, 1908 (as amended), the Family Courts Ordinance, 1985, the Arbitration Act, 2001, the Money Loan Court Act, 2003 and the Labour Act, 2006.

The growing acceptance of ADR reflects a broader global trend toward promoting access to justice and reducing pressure on formal courts. Countries such as the United Kingdom, the United States, India and Singapore have successfully integrated ADR

into their legal systems. Bangladesh has similarly recognized ADR as a valuable tool for ensuring speedy, cost-effective and participatory justice.

This study seeks to examine whether ADR can effectively serve as an appropriate civil justice mechanism in Bangladesh. It explores the legal framework, practical application, advantages, challenges and future prospects of ADR within the Bangladeshi context.

1.2 Statement of the Problem

Despite various legal reforms and judicial initiatives, the civil justice system of Bangladesh continues to face serious challenges. One of the most significant problems is the enormous backlog of cases pending before the courts. Delays in adjudication often result in denial of justice because "justice delayed is justice denied."

Civil litigation in Bangladesh is frequently characterized by:

- Lengthy procedural requirements;
- Frequent adjournments;
- High legal expenses;
- Complex evidentiary rules;
- Limited accessibility for rural and poor litigants;
- Insufficient judicial resources.

Although ADR has been introduced as an alternative mechanism to address these issues, its effectiveness remains subject to debate. Questions arise regarding the quality of settlements, enforceability of outcomes, professional capacity of mediators and public awareness of ADR processes.

Therefore, it is necessary to critically examine whether ADR can genuinely function as an appropriate and effective civil justice mechanism in Bangladesh and what reforms may be required to maximize its potential.

1.3 Research Questions

This research is guided by the following questions:

1. What is the concept and nature of Alternative Dispute Resolution?
2. What is the legal framework governing ADR in Bangladesh?
3. How effective is ADR in reducing delays and costs in civil disputes?
4. What are the major advantages and limitations of ADR in Bangladesh?
5. How does the ADR system in Bangladesh compare with those of other jurisdictions?
6. What reforms are necessary to strengthen ADR as a civil justice mechanism in Bangladesh?

1.4 Objectives of the Study

General Objective

The general objective of this study is to evaluate the effectiveness of Alternative Dispute Resolution as an appropriate civil justice mechanism in Bangladesh.

Specific Objectives

The specific objectives are:

- To analyze the concept and evolution of ADR.
- To examine the legal framework governing ADR in Bangladesh.
- To identify the benefits of ADR in civil dispute resolution.
- To assess the challenges affecting ADR implementation.
- To compare the Bangladeshi ADR system with international practices.
- To propose recommendations for improving ADR in Bangladesh.

1.5 Significance of the Study

This study is significant for several reasons.

First, it contributes to the growing body of academic literature concerning access to justice and dispute resolution in Bangladesh.

Second, the research provides a critical assessment of the effectiveness of ADR in addressing the problems of court congestion and delayed justice.

Third, policymakers, judges, lawyers and legal scholars may benefit from the findings and recommendations contained in this study.

Fourth, the study may assist governmental and non-governmental organizations in developing ADR-related policies and programs.

Finally, the research highlights the role of ADR in promoting social harmony, reducing litigation costs and ensuring broader access to justice.

1.6 Scope of the Study

The study primarily focuses on ADR mechanisms applicable to civil disputes in Bangladesh. Particular attention is given to:

- Mediation;
- Arbitration;
- Negotiation;
- Conciliation.

The research examines relevant constitutional provisions, statutory laws, judicial decisions and institutional practices relating to ADR.

Comparative references are made to selected foreign jurisdictions, including the United Kingdom, the United States and India, where appropriate.

The study does not extensively address criminal ADR mechanisms except where necessary for comparative purposes.

1.7 Research Methodology

This research adopts a doctrinal and qualitative approach.

Sources of Data

Primary Sources

Primary sources include:

- The Constitution of the People's Republic of Bangladesh;
- The Code of Civil Procedure, 1908;

- The Arbitration Act, 2001;
- The Family Courts Ordinance, 1985;
- The Money Loan Court Act, 2003;
- The Labour Act, 2006;
- Relevant judicial decisions.

Secondary Sources

Secondary sources include:

- Books;
- Journal articles;
- Research reports;
- Conference papers;
- Government publications;
- International legal materials.

Method of Analysis

The collected materials are analyzed using descriptive, analytical and comparative methods. Relevant statutes and case laws are critically examined to evaluate the strengths and weaknesses of ADR in Bangladesh.

1.8 Literature Review

Several scholars have discussed ADR as a means of improving access to justice.

M. Serajul Islam argues that ADR offers an effective mechanism for reducing court congestion and promoting amicable settlement of disputes. According to him, mediation and arbitration can significantly reduce the burden on the judiciary while preserving social relationships.

Golam Rahman highlights the role of community-based mediation in rural Bangladesh and emphasizes the importance of strengthening institutional ADR frameworks.

International scholars such as Frank E. A. Sander and Carrie Menkel-Meadow have emphasized the importance of ADR in achieving efficient, participatory and interest-based dispute resolution.

Despite these contributions, there remains a need for comprehensive research focusing specifically on ADR as an appropriate civil justice mechanism in Bangladesh. This study seeks to address that gap.

1.9 Hypothesis of the Study

The study proceeds on the hypothesis that:

"Alternative Dispute Resolution provides a more accessible, efficient and cost-effective mechanism for resolving civil disputes than traditional litigation and therefore constitutes an appropriate civil justice system for Bangladesh, subject to necessary institutional and legal reforms."

1.10 Organization of the Study

The study is divided into seven chapters:

- Chapter One: Introduction
- Chapter Two: Concept and Development of ADR
- Chapter Three: Legal Framework of ADR in Bangladesh
- Chapter Four: ADR as an Appropriate Civil Justice Mechanism
- Chapter Five: Challenges of ADR in Bangladesh
- Chapter Six: Comparative Analysis of ADR Systems
- Chapter Seven: Findings, Recommendations and Conclusion

1.11 Conclusion of Chapter One

The civil justice system of Bangladesh faces significant challenges arising from delays, costs and procedural complexities. ADR has emerged as a promising alternative capable of addressing many of these problems. The subsequent chapters of this study will examine the concept, legal framework, effectiveness and future prospects of ADR in Bangladesh in order to determine whether it can truly function as an appropriate civil justice mechanism.

CHAPTER TWO

Concept and Development of Alternative Dispute Resolution

2.1 Meaning of Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) refers to a range of processes and techniques used to resolve disputes outside the formal judicial system. It provides an alternative to traditional litigation and aims to settle conflicts in a more efficient, cost-effective, and amicable manner. ADR encompasses various methods, including negotiation, mediation, arbitration, and conciliation, through which parties seek to reach a mutually acceptable solution without resorting to lengthy court proceedings.

The term “Alternative Dispute Resolution” emerged primarily in the United States during the 1970s as part of efforts to address increasing court congestion and rising litigation costs. Since then, ADR has gained global recognition as an effective means of promoting access to justice and reducing the burden on courts.

According to Black's Law Dictionary, ADR is defined as:

“A procedure for settling a dispute by means other than litigation, such as arbitration or mediation.”

The fundamental objective of ADR is to provide parties with a flexible, informal, and participatory process for resolving disputes while preserving relationships and minimizing costs. Unlike litigation, where a judge imposes a binding decision, many ADR processes encourage the parties themselves to participate actively in finding a mutually satisfactory solution.

In Bangladesh, ADR has become increasingly important due to delays in court proceedings, case backlogs, and the high costs associated with litigation. Consequently, ADR is now regarded as an essential component of the civil justice system and a practical tool for ensuring access to justice.

2.2 Historical Development of ADR

Early Origins of ADR

The concept of resolving disputes outside formal courts is not a modern phenomenon. Historically, communities around the world have relied on informal mechanisms to

settle disputes through elders, religious leaders, tribal chiefs, and community representatives.

Ancient civilizations such as Greece, Rome, China, and India practiced various forms of mediation and arbitration. These methods emphasized reconciliation, compromise, and community harmony rather than adversarial litigation.

In many Asian societies, dispute resolution traditionally focused on restoring social relationships rather than determining legal rights through formal adjudication.

ADR in England

The modern development of ADR can be traced to England, where commercial arbitration became widely used during the eighteenth and nineteenth centuries. Merchants preferred arbitration because it provided a quicker and more specialized method of resolving commercial disputes than ordinary courts.

The English legal system gradually recognized and enforced arbitral awards, thereby strengthening the legitimacy of ADR mechanisms.

ADR in the United States

The modern ADR movement began in the United States during the 1960s and 1970s. Several factors contributed to its growth:

- Overcrowded courts;
- Rising litigation costs;
- Delays in judicial proceedings;
- Increased public dissatisfaction with traditional litigation.

A significant milestone occurred in 1976 at the Pound Conference, where legal scholars and practitioners advocated greater use of ADR. Professor Frank E. A. Sander introduced the concept of the “Multi-Door Courthouse,” proposing that different disputes should be directed to the most suitable resolution mechanism rather than automatically proceeding to trial.

As a result, mediation, arbitration, and other ADR methods became institutionalized throughout the American legal system.

ADR in International Practice

International organizations have actively promoted ADR as a means of enhancing access to justice. The United Nations, the World Bank, and various international legal institutions encourage the use of ADR for commercial, labor, family, and community disputes.

The adoption of the UNCITRAL Model Law on International Commercial Arbitration significantly contributed to the global acceptance of arbitration as an effective dispute resolution mechanism.

Development of ADR in Bangladesh

Bangladesh has a long tradition of informal dispute resolution through village-based shalish systems. For centuries, local elders and respected community leaders mediated disputes relating to family matters, land conflicts, and social disagreements.

Formal ADR mechanisms gained legal recognition through several legislative reforms, including:

- Family Courts Ordinance, 1985;
- Code of Civil Procedure (Amendment) Act, 2003;
- Arbitration Act, 2001;
- Money Loan Court Act, 2003;
- Labour Act, 2006;
- Village Court Act, 2006.

These reforms demonstrate the increasing importance of ADR within the Bangladeshi legal system.

2.3 Types of ADR

ADR encompasses several distinct methods of dispute resolution. Each method possesses unique characteristics and is suitable for different types of disputes.

2.3.1 Negotiation

Negotiation is the simplest and most informal form of ADR. It involves direct communication between the disputing parties with the aim of reaching a mutually acceptable agreement.

In negotiation, no third party participates in the process. The parties themselves retain complete control over both the procedure and the outcome.

Characteristics of Negotiation

- Voluntary process;
- Informal procedure;
- Flexible structure;
- Confidential discussions;
- Party autonomy.

Advantages

- Lowest cost;
- Fast resolution;
- Preservation of relationships;
- Complete control by parties.

Disadvantages

- Imbalance of bargaining power;
- No guaranteed settlement;
- Potential for unfair outcomes.

Negotiation is particularly effective in commercial, contractual, and family disputes where parties wish to maintain ongoing relationships.

2.3.2 Mediation

Mediation is a structured process in which a neutral third party, known as a mediator, assists the disputing parties in reaching a voluntary settlement.

Unlike a judge or arbitrator, the mediator does not impose a decision. Instead, the mediator facilitates communication and helps the parties identify mutually acceptable solutions.

Characteristics of Mediation

- Neutral third-party involvement;
- Voluntary participation;
- Confidential process;
- Non-binding recommendations;
- Focus on consensus.

Advantages

- Cost-effective;
- Less adversarial;
- Maintains relationships;
- Flexible outcomes.

Disadvantages

- No guaranteed resolution;
- Settlement depends on cooperation;
- Potential imbalance between parties.

Mediation has become increasingly popular in Bangladesh, particularly in family and civil disputes.

2.3.3 Arbitration

Arbitration is a formal ADR process in which parties submit their dispute to one or more neutral arbitrators who render a binding decision known as an arbitral award.

Arbitration resembles litigation in certain respects but remains less formal and more flexible than court proceedings.

Characteristics of Arbitration

- Neutral arbitrator;
- Binding decision;
- Private proceedings;
- Flexible procedural rules;

- Enforceable award.

Advantages

- Faster than litigation;
- Expert decision-makers;
- Confidentiality;
- International enforceability.

Disadvantages

- Limited appeal rights;
- Potentially expensive in complex cases;
- Restricted judicial review.

In Bangladesh, arbitration is governed primarily by the Arbitration Act, 2001, which incorporates many principles of international arbitration law.

2.3.4 Conciliation

Conciliation is similar to mediation but involves a more active role by the conciliator. The conciliator may suggest possible solutions and actively encourage settlement.

The objective is to facilitate an amicable resolution while maintaining cooperation between the parties.

Characteristics of Conciliation

- Neutral conciliator;
- Voluntary process;
- Informal procedure;
- Emphasis on compromise;
- Confidential discussions.

Advantages

- Flexible;
- Relationship-preserving;
- Less costly than litigation;

- Encourages mutually beneficial settlements.

Disadvantages

- Non-binding outcome;
- Dependence on cooperation;
- Limited use in some jurisdictions.

Conciliation is particularly common in labor and industrial disputes where preserving future working relationships is important.

2.4 ADR in Common Law Countries

Common law countries have played a significant role in the development and institutionalization of ADR.

United Kingdom

The United Kingdom strongly encourages ADR as part of its civil justice system. The Civil Procedure Rules (CPR) emphasize the importance of resolving disputes without litigation whenever possible.

English courts frequently encourage mediation and may impose cost consequences on parties who unreasonably refuse ADR.

The Woolf Reforms of the late 1990s significantly promoted ADR as a means of improving access to justice and reducing litigation costs.

United States

The United States is widely regarded as the birthplace of the modern ADR movement. Federal and state courts actively promote mediation, arbitration, and settlement conferences.

Many courts operate mandatory mediation programs and alternative dispute resolution centers.

The concept of the Multi-Door Courthouse has become a foundational principle of American dispute resolution policy.

Canada

Canada has integrated ADR into both provincial and federal legal systems. Mediation and arbitration are commonly used in commercial, family, and labor disputes.

Several provinces require mediation before certain civil cases may proceed to trial.

Australia

Australia strongly supports ADR through legislation, court rules, and institutional frameworks. Mediation is widely used in commercial, environmental, and family disputes.

Australian courts frequently encourage parties to attempt ADR before proceeding to formal litigation.

Overall, common law countries increasingly regard ADR as an essential component of modern civil justice systems.

2.5 ADR in South Asia

ADR has gained considerable importance throughout South Asia due to judicial delays, increasing litigation costs, and growing demand for accessible justice.

India

India possesses one of the most advanced ADR frameworks in South Asia. Section 89 of the Code of Civil Procedure authorizes courts to refer disputes to ADR mechanisms.

The Legal Services Authorities Act, 1987 introduced Lok Adalats, which provide inexpensive and speedy dispute resolution.

The Indian judiciary actively promotes mediation and arbitration.

Pakistan

Pakistan recognizes ADR through various statutes and judicial initiatives. Mediation and arbitration are commonly used in commercial and family disputes.

The Pakistani legal system increasingly encourages ADR to reduce court congestion and improve access to justice.

Sri Lanka

Sri Lanka has established Mediation Boards throughout the country. Many disputes must first be referred to mediation before litigation can commence.

The system has successfully resolved a significant number of community disputes.

Nepal

Nepal has adopted community mediation programs aimed at improving access to justice, particularly in rural areas.

Local mediation committees play an important role in resolving disputes efficiently and peacefully.

Bangladesh

Bangladesh has made substantial progress in institutionalizing ADR through legislative reforms and judicial support. Court-annexed mediation, arbitration, and village courts contribute significantly to the resolution of civil disputes.

Nevertheless, challenges remain, including limited public awareness, insufficient professional training, and institutional weaknesses.

CHAPTER THREE

Legal Framework of Alternative Dispute Resolution (ADR) in Bangladesh

3.1 Constitutional Perspective

Although the Constitution of the People's Republic of Bangladesh does not expressly mention Alternative Dispute Resolution (ADR), its fundamental principles strongly support the objectives and philosophy of ADR. The Constitution emphasizes justice, equality, rule of law, and access to legal remedies, all of which are promoted through ADR mechanisms.

The Preamble of the Constitution pledges to establish a society based on the rule of law, fundamental human rights, freedom, equality, and justice. These constitutional commitments encourage the development of mechanisms that ensure effective and accessible justice for all citizens.

Article 27 guarantees equality before the law and equal protection of the law. ADR contributes to the realization of this constitutional principle by providing citizens with affordable and accessible dispute resolution mechanisms.

Article 31 ensures the protection of law and guarantees that every citizen shall enjoy the protection of the law and be treated in accordance with law. ADR serves as a practical means of enforcing this constitutional guarantee by facilitating timely dispute resolution.

Article 32 protects the right to life and personal liberty. Modern constitutional jurisprudence interprets access to justice as an integral aspect of human dignity and legal protection. Excessive delays in litigation may undermine these constitutional rights, thereby justifying the use of ADR as an alternative mechanism.

Article 35 guarantees fair trial and due process. While ADR processes differ from traditional judicial proceedings, they must adhere to principles of fairness, impartiality, and voluntary participation.

Furthermore, Article 77 authorizes the establishment of the Office of the Ombudsman, which reflects constitutional recognition of alternative mechanisms for resolving grievances outside ordinary courts.

The constitutional vision of justice therefore provides a strong foundation for the growth and institutionalization of ADR in Bangladesh.

3.2 ADR under the Code of Civil Procedure, 1908

The most significant statutory recognition of ADR in Bangladesh is found in the Code of Civil Procedure (CPC), 1908. Through legislative amendments, ADR mechanisms have been incorporated into civil litigation with the objective of reducing delays and promoting amicable settlements.

Prior to the reforms introduced in the early 2000s, civil disputes were generally resolved through lengthy judicial proceedings. To address the growing backlog of cases, the Code was amended to introduce court-annexed mediation.

Section 89A: Mediation

Section 89A empowers courts to refer disputes to mediation at any stage of a suit.

Under this provision:

- Parties may attempt settlement through mediation.
- The court may encourage amicable resolution.
- Mediators may be selected by the parties or appointed by the court.
- Settlement agreements are recorded and enforced by the court.

The introduction of Section 89A marked a significant shift toward consensual dispute resolution in civil matters.

Section 89B: Arbitration

Section 89B permits parties to refer disputes to arbitration while litigation is pending before the court.

Under this provision:

- Parties may agree to arbitration.
- Court proceedings remain suspended during arbitration.
- The arbitral award is enforceable according to law.

Significance of CPC ADR Provisions

The ADR provisions under the CPC aim to:

- Reduce judicial backlog.
- Ensure speedy disposal of cases.
- Minimize litigation costs.
- Preserve relationships between disputing parties.

The incorporation of ADR into the CPC represents one of the most important legal reforms in the civil justice system of Bangladesh.

3.3 ADR under the Family Courts Ordinance, 1985

Family disputes often involve sensitive personal relationships and therefore require a less adversarial approach than ordinary litigation. Recognizing this reality, the Family Courts Ordinance, 1985 incorporates ADR principles through mandatory reconciliation efforts.

The Ordinance governs disputes relating to:

- Marriage;
- Divorce;
- Dower;
- Maintenance;
- Guardianship;
- Custody of children.

Reconciliation Proceedings

Before proceeding with trial, family courts are required to make efforts to reconcile the parties.

The judge acts as a facilitator and encourages amicable settlement.

This process aims to:

- Preserve family relationships;
- Protect children's interests;

- Reduce emotional trauma;
- Avoid unnecessary litigation.

Importance of ADR in Family Matters

Family disputes differ significantly from commercial or property disputes because they often involve ongoing relationships. ADR allows parties to resolve disputes cooperatively while minimizing hostility.

Consequently, the Family Courts Ordinance remains one of the most successful examples of ADR integration within the Bangladeshi legal system.

3.4 Arbitration Act, 2001

The Arbitration Act, 2001 constitutes the principal legislation governing arbitration in Bangladesh. The Act replaced the outdated Arbitration Act of 1940 and modernized arbitration law in accordance with international standards.

The legislation is substantially influenced by the UNCITRAL Model Law on International Commercial Arbitration.

Objectives of the Act

The principal objectives include:

- Promotion of arbitration;
- Reduction of court interference;
- Efficient settlement of commercial disputes;
- Recognition of international arbitral awards.

Key Features

Arbitration Agreement

The Act requires a valid arbitration agreement between the parties before arbitration proceedings may commence.

Appointment of Arbitrators

Parties possess substantial freedom in selecting arbitrators.

Conduct of Proceedings

Arbitration proceedings are flexible and less formal than court litigation.

Arbitral Award

The award rendered by the arbitrator is binding upon the parties.

Enforcement

Arbitral awards are enforceable through the courts.

Importance

The Arbitration Act has significantly contributed to commercial dispute resolution in Bangladesh and enhanced confidence among domestic and international investors.

3.5 ADR under the Labour Act, 2006

Industrial peace and harmonious labor relations are essential for economic development. The Bangladesh Labour Act, 2006 incorporates several ADR mechanisms to facilitate the settlement of labor disputes.

Conciliation

Conciliation is the primary ADR mechanism under the Labour Act.

When disputes arise between employers and workers, parties are encouraged to participate in conciliation proceedings.

A conciliator assists the parties in reaching a mutually acceptable settlement.

Arbitration

If conciliation fails, parties may voluntarily submit the dispute to arbitration.

The arbitrator's decision becomes binding upon the parties.

Objectives

ADR provisions under the Labour Act seek to:

- Prevent industrial unrest;
- Reduce strikes and lockouts;
- Promote cooperation between employers and employees;
- Facilitate speedy dispute resolution.

These mechanisms contribute to maintaining stable industrial relations and protecting workers' rights.

3.6 ADR under the Village Court Act, 2006

The Village Court Act, 2006 establishes village courts as grassroots institutions for resolving minor disputes in rural areas.

Village courts combine elements of traditional community-based dispute resolution with formal legal procedures.

Composition of Village Courts

A village court consists of:

- The Chairman of the Union Parishad;
- Representatives nominated by the parties.

Jurisdiction

Village courts have jurisdiction over specified civil and minor criminal matters.

ADR Characteristics

Village courts emphasize:

- Reconciliation;
- Community participation;
- Informal procedures;
- Speedy settlement.

Significance

The Village Court system promotes access to justice for rural populations by:

- Reducing litigation costs;
- Providing local dispute resolution;
- Decreasing pressure on formal courts.

The system reflects the traditional Bangladeshi practice of community-based dispute resolution while operating within a statutory framework.

3.7 ADR under the Money Loan Court Act, 2003

The Money Loan Court Act, 2003 (Artha Rin Adalat Ain) governs disputes relating to loan recovery by banks and financial institutions.

Recognizing the importance of expeditious dispute resolution in financial matters, the Act incorporates mediation mechanisms.

Mediation Process

The court may encourage settlement through mediation before proceeding with formal adjudication.

Parties may negotiate repayment arrangements and other mutually acceptable solutions.

Objectives

The mediation provisions aim to:

- Facilitate recovery of loans;
- Reduce lengthy litigation;
- Protect commercial relationships;
- Improve efficiency within the financial sector.

Practical Importance

The inclusion of ADR within the Money Loan Court framework reflects legislative recognition that consensual settlement often provides a more effective solution than prolonged litigation.

3.8 Recent Judicial Developments

The judiciary of Bangladesh has played a crucial role in promoting ADR and strengthening its legal foundation.

Over the past two decades, courts have increasingly encouraged mediation and settlement as effective tools for reducing judicial backlog.

Judicial Support for Mediation

The Supreme Court and subordinate courts have repeatedly emphasized the importance of mediation in civil and family disputes.

Judges frequently encourage parties to explore settlement opportunities before proceeding to trial.

Court-Annexed ADR

Court-annexed mediation programs have expanded significantly in Bangladesh. These programs enable parties to resolve disputes within the judicial framework while avoiding lengthy trials.

Promotion of Access to Justice

Recent judicial initiatives have focused on:

- Speedy disposal of cases;
- Reduction of court congestion;
- Affordable justice;
- Strengthening public confidence in the legal system.

Digitalization and ADR

The growing use of information technology has also created opportunities for online dispute resolution and virtual mediation processes.

These developments indicate the judiciary's commitment to modernizing dispute resolution mechanisms and integrating ADR more effectively into the civil justice system.

Challenges Recognized by the Judiciary

Despite notable progress, courts have acknowledged several challenges, including:

- Limited public awareness;
- Shortage of trained mediators;
- Inconsistent implementation;
- Institutional constraints.

Judicial reforms continue to focus on addressing these challenges while expanding the role of ADR in Bangladesh's legal system.

CHAPTER FOUR

ADR as an Appropriate Civil Justice Mechanism

4.1 Access to Justice

Access to justice is a fundamental principle of every democratic legal system. It refers to the ability of individuals to obtain legal remedies through fair, affordable, and effective procedures. In Bangladesh, access to justice is often hindered by lengthy court proceedings, high litigation costs, and procedural complexities.

ADR significantly improves access to justice by providing citizens with alternative avenues for resolving disputes. ADR mechanisms are generally less formal, less expensive, and more accessible than traditional court proceedings. They enable individuals, particularly those from disadvantaged backgrounds, to resolve disputes without the need for prolonged litigation.

In rural areas of Bangladesh, where access to courts may be limited, ADR plays a particularly important role in ensuring justice. Through mediation, arbitration, and village courts, citizens can obtain remedies in a more convenient and efficient manner.

Thus, ADR serves as an important instrument for enhancing access to justice and promoting legal empowerment.

4.2 Cost Effectiveness

One of the most significant advantages of ADR is its cost-effectiveness. Litigation often involves substantial expenses, including court fees, legal representation, transportation costs, and other related expenditures.

ADR processes generally require fewer procedural formalities and shorter durations, resulting in lower costs for the parties involved.

The cost-saving benefits of ADR include:

- Reduced legal fees;
- Lower administrative expenses;
- Fewer court appearances;
- Minimal procedural requirements;
- Faster resolution of disputes.

For individuals with limited financial resources, ADR offers a practical and affordable alternative to litigation.

Cost-effectiveness is particularly important in Bangladesh, where economic constraints frequently prevent individuals from pursuing legal remedies through formal courts.

4.3 Speedy Disposal of Cases

The principle of timely justice is an essential component of an effective legal system. Delayed justice often results in increased costs, frustration, and loss of confidence in the judiciary.

The traditional court system in Bangladesh faces significant delays due to the large number of pending cases. Many civil disputes remain unresolved for several years.

ADR addresses this problem by facilitating quicker dispute resolution.

Several factors contribute to the speed of ADR:

- Simplified procedures;
- Flexible scheduling;
- Limited procedural technicalities;
- Reduced evidentiary requirements;
- Focus on settlement rather than adjudication.

Mediation and negotiation, in particular, often result in settlements within a relatively short period.

By ensuring speedy resolution of disputes, ADR contributes significantly to the effectiveness of civil justice in Bangladesh.

4.4 Preservation of Relationships

Traditional litigation is generally adversarial in nature. Parties compete against one another, and the outcome often produces a winner and a loser. This process may damage personal, family, and business relationships.

ADR, on the other hand, emphasizes cooperation, communication, and mutual understanding.

Mediation and conciliation encourage parties to identify common interests and reach mutually beneficial solutions.

The preservation of relationships is especially important in:

- Family disputes;
- Employment disputes;
- Commercial partnerships;
- Community conflicts.

By promoting dialogue and compromise, ADR reduces hostility and facilitates long-term cooperation between parties.

This relationship-preserving function makes ADR particularly suitable for many civil disputes in Bangladesh.

4.5 Confidentiality

Confidentiality is another important advantage of ADR.

Court proceedings are generally conducted in public and become part of the public record. This may discourage parties from disclosing sensitive information.

ADR proceedings are typically private and confidential.

Confidentiality offers several benefits:

- Protection of personal privacy;
- Protection of business secrets;
- Encouragement of open communication;
- Reduced reputational risks;
- Greater flexibility in negotiations.

Commercial entities often prefer arbitration because it allows disputes to be resolved without public disclosure of confidential business information.

Similarly, family disputes may be resolved through mediation without exposing sensitive personal matters to public scrutiny.

The confidentiality of ADR therefore enhances its attractiveness as a dispute resolution mechanism.

4.6 Reduction of Court Backlog

One of the most serious challenges facing the Bangladeshi judiciary is the enormous backlog of cases.

A large number of pending cases results in:

- Delayed justice;
- Increased judicial workload;
- Administrative inefficiencies;
- Public dissatisfaction.

ADR contributes to reducing court congestion by diverting disputes away from formal litigation.

When disputes are resolved through mediation, arbitration, or conciliation, courts are relieved of the burden of conducting lengthy trials.

The incorporation of ADR into the Code of Civil Procedure, Family Courts Ordinance, Labour Act, and other legislation reflects legislative recognition of its potential to reduce judicial backlog.

By decreasing the number of cases proceeding to trial, ADR helps improve the overall efficiency of the justice system.

4.7 Comparative Analysis with Traditional Litigation

ADR and traditional litigation represent two distinct approaches to dispute resolution.

Nature of Process

Litigation is formal and adversarial, whereas ADR is generally informal and cooperative.

Cost

Litigation often involves substantial expenses, while ADR is usually more affordable.

Time

Court proceedings may continue for years, whereas ADR frequently resolves disputes within a shorter period.

Flexibility

ADR allows parties to determine procedures and outcomes, whereas litigation follows strict procedural rules.

Privacy

Litigation is generally public, while ADR proceedings are usually confidential.

Control over Outcome

In litigation, the judge imposes a decision. In ADR, parties often participate directly in shaping the outcome.

Relationship Preservation

ADR promotes cooperation and relationship preservation, whereas litigation may increase hostility.

Comparative Evaluation

Although litigation remains necessary for certain disputes involving complex legal issues or public interests, ADR offers significant advantages for many civil disputes.

Therefore, ADR can reasonably be regarded as an appropriate civil justice mechanism for Bangladesh.

CHAPTER FIVE

Challenges of ADR in Bangladesh

5.1 Lack of Public Awareness

Despite legislative reforms and judicial initiatives, public awareness regarding ADR remains limited.

Many citizens are unfamiliar with:

- ADR procedures;
- Available ADR institutions;
- Legal benefits of ADR;
- Enforcement mechanisms.

As a result, individuals often prefer traditional litigation even when ADR would be more suitable.

Increasing public awareness is therefore essential for expanding the use of ADR.

5.2 Lack of Skilled Mediators

The effectiveness of ADR largely depends on the competence and neutrality of mediators, conciliators, and arbitrators.

Bangladesh faces a shortage of adequately trained ADR professionals.

Many mediators lack:

- Professional training;
- Negotiation skills;
- Conflict management expertise;
- Legal knowledge.

This shortage may reduce public confidence in ADR processes and affect the quality of settlements.

5.3 Institutional Weaknesses

Effective ADR requires strong institutional support.

Several institutional challenges persist in Bangladesh, including:

- Insufficient ADR centers;
- Limited financial resources;
- Inadequate administrative support;
- Lack of monitoring mechanisms.

These weaknesses hinder the efficient operation of ADR programs.

Strengthening institutional capacity remains a major challenge for the future development of ADR.

5.4 Enforcement Problems

The enforceability of ADR outcomes is essential for maintaining public confidence.

Although arbitral awards are generally enforceable under the Arbitration Act, practical difficulties sometimes arise during implementation.

Common enforcement problems include:

- Procedural delays;
- Judicial challenges;
- Administrative obstacles;
- Non-compliance by parties.

Effective enforcement mechanisms are necessary to ensure the credibility of ADR.

5.5 Cultural and Social Barriers

Cultural attitudes and social traditions sometimes impede the growth of ADR.

Many individuals continue to perceive court judgments as more authoritative than negotiated settlements.

Traditional power structures may also influence dispute resolution processes, particularly in rural areas.

Such barriers may discourage voluntary participation and undermine confidence in ADR mechanisms.

5.6 Gender Issues

Gender inequality presents a significant challenge within certain ADR processes.

Women may face disadvantages due to:

- Social pressure;
- Economic dependency;
- Unequal bargaining power;
- Limited legal awareness.

These factors may affect the fairness of settlements and limit women's ability to participate effectively in ADR proceedings.

Efforts to ensure gender-sensitive ADR practices are therefore essential.

5.7 Judicial Reluctance

Although judicial attitudes toward ADR have improved considerably, some degree of reluctance still exists.

Certain judges and lawyers continue to prefer traditional litigation due to:

- Familiarity with court procedures;
- Concerns regarding settlement quality;
- Limited ADR training.

Greater judicial support and professional education are necessary to encourage wider use of ADR.

CHAPTER SIX

Comparative Analysis of ADR Systems

6.1 ADR in the United Kingdom

The United Kingdom has developed one of the most advanced ADR systems in the world.

The Civil Procedure Rules encourage parties to consider ADR before proceeding to trial.

Courts actively promote mediation and may impose cost penalties on parties who unreasonably refuse ADR.

The United Kingdom's success demonstrates how ADR can effectively complement the formal justice system.

Key Features

- Strong judicial support;
- Court-annexed mediation;
- Professional mediator training;
- Effective institutional frameworks.

6.2 ADR in India

India has made substantial progress in promoting ADR.

Section 89 of the Code of Civil Procedure authorizes courts to refer disputes to ADR mechanisms.

India has also developed innovative institutions such as Lok Adalats, which provide inexpensive and efficient dispute resolution services.

Mediation centers operate in many courts throughout the country.

Key Features

- Statutory recognition;
- Judicial encouragement;
- Community-based dispute resolution;

- Specialized mediation centers.

6.3 ADR in the United States

The United States is widely regarded as the leader of the modern ADR movement.

Federal and state courts actively promote mediation, arbitration, and settlement conferences.

Many courts require parties to attempt ADR before proceeding to trial.

The concept of the "Multi-Door Courthouse" has significantly influenced American dispute resolution policy.

Key Features

- Mandatory mediation programs;
- Extensive ADR infrastructure;
- Professional training standards;
- Strong institutional support.

6.4 Lessons for Bangladesh

The experiences of the United Kingdom, India, and the United States offer valuable lessons for Bangladesh.

Strengthening Institutional Capacity

Bangladesh should establish additional mediation centers and ADR institutions.

Professional Training

Comprehensive training programs should be introduced for mediators, arbitrators, and conciliators.

Public Awareness

National awareness campaigns should educate citizens regarding the benefits of ADR.

Judicial Support

Judges should continue encouraging settlement and mediation whenever appropriate.

Technological Development

Online dispute resolution platforms may improve accessibility and efficiency.

Legal Reform

Existing ADR legislation should be regularly reviewed and updated to address emerging challenges.

By adopting these measures, Bangladesh can further strengthen ADR as a viable civil justice mechanism.

CHAPTER SEVEN

Findings, Recommendations and Conclusion

7.1 Findings

The study reveals several important findings regarding the role of ADR in Bangladesh.

First

ADR provides a more accessible and affordable means of resolving disputes than traditional litigation.

Second

ADR significantly contributes to reducing court congestion and judicial backlog.

Third

Mediation, arbitration, conciliation, and negotiation offer flexible and efficient dispute resolution mechanisms.

Fourth

The legal framework governing ADR in Bangladesh has expanded considerably through various legislative reforms.

Fifth

Despite notable progress, ADR continues to face challenges relating to awareness, institutional capacity, enforcement, and professional training.

Sixth

Comparative analysis demonstrates that countries with strong institutional support achieve greater success in implementing ADR.

7.2 Recommendations

Based on the findings of this study, the following recommendations are proposed:

Public Awareness Programs

Government agencies and civil society organizations should conduct nationwide awareness campaigns regarding ADR.

Professional Training

Specialized training programs should be developed for mediators, arbitrators, judges, and lawyers.

Institutional Strengthening

Additional ADR centers should be established throughout the country.

Legal Reform

ADR legislation should be periodically reviewed and updated.

Effective Enforcement

Mechanisms for enforcing settlements and arbitral awards should be strengthened.

Gender-Sensitive Procedures

ADR institutions should adopt policies that ensure equal participation of women.

Technological Integration

Online mediation and digital dispute resolution systems should be introduced.

Judicial Cooperation

Judges should continue encouraging the use of ADR wherever appropriate.

7.3 Conclusion

Alternative Dispute Resolution has emerged as one of the most important developments in modern civil justice systems. In Bangladesh, ADR offers a practical solution to many challenges associated with traditional litigation, including delays, high costs, procedural complexities, and court congestion.

The legal framework governing ADR has expanded considerably through constitutional principles, statutory reforms, and judicial initiatives. Mechanisms such as mediation, arbitration, conciliation, and negotiation provide efficient and accessible alternatives to court-based dispute resolution.

Although significant challenges remain, including limited public awareness, institutional weaknesses, enforcement difficulties, and shortages of trained professionals, the overall prospects for ADR in Bangladesh are highly encouraging.

The experiences of other jurisdictions demonstrate that effective ADR systems require strong institutional support, professional competence, judicial cooperation, and public confidence. By implementing appropriate reforms and strengthening existing mechanisms, Bangladesh can further develop ADR as an effective and appropriate civil justice system.

In conclusion, ADR has the potential to play a transformative role in ensuring accessible, affordable, and efficient civil justice in Bangladesh and should continue to be promoted as an integral component of the country's legal framework.

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