Abstract
The present study had two objectives: to analyze the challenges in introducing Alternative Dispute Resolution (hereinafter ADR) in criminal matters and to explore the possibilities of disposing of the criminal cases through ADR. After deploying doctrinal research methodology, the present study found that the poor quality of decision-making, non-protection of the public rights, hindrance in development of law, disregarding the victim, advantageous position of the prosecution, compromising the constitutional rights of accused, lack of well defined rule for ADR and the difference in procedure are the major challenges for alternative dispute resolution in criminal matters. The study also found that criminal cases may be disposed of through ADR in case of private complaint, first-time offender, simple imprisonment, petty offences, or by introducing special law and courts, or where compounding or compromising of offences is legally allowed. The study further found that the ADR in criminal cases has been and is practiced by way of mediation and plea bargaining. The study recommends that the legislature should introduce appropriate and apposite amendments to accommodate the ADR in criminal justice system of Pakistan.

Keywords: Alternative Dispute Resolution, Adjudication in Criminal Cases, Medication

1. Introduction

What is?
According to Akinbuwa, ADR refers to a range of mechanisms designed to assist disputing parties in resolving their disputes without the need for formal judicial proceedings. They are those mechanisms that are used to resolve disputes faster, fairer, and without destroying on-going relationships (Akinbuwa, A. A. (2010). Citizens Mediation Center and Multi-Door Courthouse in Lagos State. Law, Politics and Development, 327.).

Black’s Law Dictionary defines ADR as a procedure for settling a dispute by means other than litigation, such as arbitration or mediation. Equally, Oxford Dictionary of Law describes it as various methods of resolving civil disputes otherwise than through the normal trial process.

Also, it refers to a set of practices and techniques aimed at permitting the resolution of legal disputes outside the courts (Ewulum, B. E. (2017). Alternative dispute resolution mechanisms, plea bargain and criminal justice system in Nigeria. Nnamdi Azikiwe University Journal of International Law and Jurisprudence, 8(2), 119-124).

When parties need to resolve a dispute, they may often turn not only to the state-sanctioned method of dispute resolution-trial before a court-but also to alternatives, notably, to arbitration, abbreviated trial procedures, or mediation. Although particular methods of alternative dispute resolution (ADR) can vary from one another, they share the feature that a third party (negotiation is an exception where third party is not involved) is involved who offers an opinion or communicates information about the dispute to the disputants. In addition, the formality, length, and cost of parties’ beh distinction in the analysis between ex ante agreements made before disputes arise and ADR after disputes have arisen. ADR would produce mutual gains. The major ways: through promotion of settlement, dispute resolution cost (Shavell, S. (1995). Alternative dispute resolution: an economic analysis. The Journal of Legal Studies, 24(1), 1-28.)

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Mediation

According to Black’s Law Dictionary, mediation is a method of non-binding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution. Mediation as defined in Oxford Dictionary of Law means a form of alternative dispute resolution in which an independent third party (mediator) assists the parties involved in a dispute or negotiation to achieve a mutually acceptable resolution of the points of conflict. The mediator, who may be a lawyer or a specially trained non-lawyer, has no decision-making powers and cannot force the parties to accept a settlement. According to Haynes, ‘Mediation is a process in which a third person helps the participants in a dispute to solve it. The agreement resolves the problem with a naturally acceptable solution and is structured in a way that helps maintain the continuing relationship of the people involved’.

Simply put, mediation is negotiation assisted by a third party. It is voluntary, informal, consensual, confidential and not binding on the parties. The mediator’s sole function is not to decide the issues or determine right or wrong, but to help the disputants resolve their conflict consensually.

Theoretical Justification

The use of ADR processes in the criminal justice system connotes the image of the restorative justice movement, which seeks to shift the emphasis from the ideas of violation of the state and punishment towards reparation and inculcating in the offender a sense of responsibility towards the victim and the community. The rights and liabilities in a criminal case have to be determined by the criminal courts have to determine the rights and liability arising out of certain actions falling in the area of criminal offences, because such courts are specially equipped with tools to try criminal offences and inflict punishment. Therefore, such disputes are not triable...
by the ‘arbitral tribunals’. When question arises as to the criminal nature of the dispute, the arbitral tribunal will investigate whether the matter is one which the public policy would permit to be compromised. The researchers seek to study Indian position on applicability of ADR in criminal matters along with its comparative analysis (Kumara, A., & Batra, A. Interface of ADR and Criminal Law.).

Features of restorative justice
To its conceptual and practical founders (John Braithwaite, Howard Zehr, and Mark Umbreit, among others), the field of restorative justice is an effort to transform the way we think of punishment for wrongful acts. When a crime or serious bad act (which may include more classes of activity than those legally labeled criminal) occurs, it effects the victims, offenders, interested bystanders (such as family members, employees, or citizens), and the larger community in which it is embedded. To paraphrase one of the field’s founders (Zehr 2002, Zehr & Mika 1998), these bad acts or ruptures in human interaction create needs and responsibilities for the direct participants in the act, as well as for the larger society in which their act(s) occur. Restorative justice is the name given to a variety of different practices, including apologies, restitution, and acknowledgments of harm and injury, as well as to other efforts to provide healing and reintegration of offenders into their communities, with or without additional punishment. Restorative justice usually involves direct communication, often with a facilitator, of victims and offenders, often with some or full representation of the relevant affected community, I provide a setting for acknowledgment of fault by the offender, restitution of some sort to the victim, including both affective apologies and material exchanges or payments, and often new mutual understandings, forgiveness, and agreed-to new undertakings for improved behaviors. In its most idealized form, there are four Rs of restorative justice: repair, restore, reconcile, and reintegrate the offenders and victims to each other and to their shared community. Restorative justice programs are intended, in ideology, to be purely voluntary, but aspects of restorative justice have been co-opted into mandatory diversionary and formal court programs, raising questions of philosophical purity and efficacy and challenging efforts to measure the impact of these programs. Some models of restorative justice have been used in prisons, concurrent with and adjunct to formal punishment, and observers fear that some offenders may pay twice with formal criminal sanctions and demands for less formal 10.8 Menkel-Meadow ANRY327-LS03-10 ARI 13 July 2007 21:27 restititutionary or shaming rituals that reduce their human dignity (Nusselbaum 2004). Restorative justice processes can also be used following release, as conditions of parole or probation, connecting the offender to agreements with victims or the community for social service, compensation, or accountability for behavioral change. Although restorative justice is motivated by those seeking humanistic integration, it is easy to see how some restorative justice forms can appear oppressive, reducing freedom of action, and individual agency and requiring intrusive surveillance and accountability that can devolve into counterproductive resentment (Menkel-Meadow, C. (2007). Restorative justice: What is it and does it work?. Annu. Rev. Law Soc. Sci., 3, 161-187.).

CRIMINAL ADR PROGRAMS. As far as the development of Criminal ADR procedures is concerned, it took birth from earlier “informal justice” programs. There are various criminal ADR programs that are running throughout the globe. Some of these are as follows: Victim-Offender Mediation Programs (VOM). Victim-Offender mediation programs provide an opportunity for crime victims and offenders to meet face-to-face. A discussion between the crime victims and offenders is encouraged and facilitated by a trained mediator, often a program volunteer. Also referred to as victim-offender reconciliation programs (VORP) or victim reparation programs, in most cases, its purpose is to promote direct communication between victim and offender. Victims who participate are provided with an opportunity to ask questions, address the emotional trauma caused by the crime and its aftermath, and seek reparations. Anoop Kumar, Aarushi Batra 13084 Community Dispute Resolution Programs (CDRP). CDRP seek to dispose of minor conflicts that have not been disposed off and are clogging criminal dockets. Victim-offender Panels (VOP). VOP developed as a result of the rise of the victims’ rights movement in the last two decades and in particular to the campaign against drunk driving. They often used to provide the convicted drunk drivers with a chance to appreciate human cost of drunk driving on victims and survivors. It also intends to decrease the likelihood of repeat offenses. Victim Assistance Programs. In the federal government of America, the Victim Assistance Programs appeared for the first time in the early 1970s as part of the Victims’ Rights movement. Further, the victims’ rights advocates argued for the establishment of victim compensation funds. Thus, Victims of Crime Act of 1984 (VOCA) was enacted, which authorized the creation of programs that pay victims compensation for certain losses associate with a criminal act. VOCA established the Crime Victim’s Fund, which is supported by all fines that are collected from persons who have been convicted of offenses against the United States, except for fines that are collected through certain environmental statues and other fines that are specifically designated for certain accounts, such as the Postal Service Fund. The other way the fund provides compensation is to give the money directly to the governor of a state for the financial support of eligible crime-victim assistance programs. Community Crime Prevention Programs. Community crime prevention programs were founded upon a simple idea that private citizens can and should play a critical role in preventing crime in their communities. The community crime prevention has included a plethora of activities, including media anti-drug campaigns, silent observer programs, and neighborhood dispute resolution programs. No consensual definition of the community crime prevention program concept has emerged. But criminal justice scholars have restricted its application to activities that include residents of a particular locality who participate in efforts to stop crimes before they occur in that locality. Private Complaint Mediation Service (PCMS). PCMS provides the mediation as an alternative to the formal judicial process of handling criminal misdemeanor disputes between private citizens. PCMS has been in operation since 1974 and is funded and administered by the Hamilton County Court system. PCMS gets its authority from Administrative Rule 9.02 of the Hamilton County Municipal Court. Apart from the above programs, there are also available the mechanism of sentencing circles, ex-offender assistance, community service, school programs, and specialist courts. These programs point towards a gradual shift from deterrence to reparation, as a mode of criminal justice in some nations. In a nutshell, they show the application of restorative justice (Kumara, A., & Batra, A. Interface of ADR and Criminal Law.).
It normally requires the consent and commitment of parties involved with a potential of presenting a more successful and sustainable solution to disputes. It is usually less formal, less expensive, and less time consuming than a trial. It can give people more opportunity to determine when and how their disputes will be resolved with more flexibility in choosing what rules will be applied to their dispute. Parties can also have the option of choosing an expert in the relevant field. ADR enables flexible settlement that takes account of factors other than money or land, focusing on interests and needs and enabling disputants to build relationship. Since ADR is a set of practices allowing the settlement of disputes outside the rules of litigations, it has far more advantages than litigation.

- Means

**Arbitration** Black’s Law Dictionary defines arbitration as a method of dispute resolution involving one or more neutral third parties who are usually agreed to by the disputing parties and whose decision is binding. It also defines an arbitrator as a neutral person who resolves disputes between parties, especially by means of formal arbitration. The principal Act regulating arbitration in Nigeria is the Arbitration and Conciliation Act. This Act in section 57 which is the interpretation section defines arbitration as commercial arbitration whether or not administered by a permanent arbitral institution. Arbitration is a process in which a third party neutral, after listening to parties in a relatively informal hearing makes a binding decision resolving the dispute. It is the simple version of a trial consisting of simplified rules of evidence. It arises where a third party neutral is appointed by the parties or an appointing authority to determine the dispute.

### 2. Review of the Literature

In the minor crime, the solving of cases process through formal process in the court is the process that is taking much cost and long time is not suitable with detriments of the crime impact, these all are contrary with the principal fast, simple and unexpensive judicature. Writing this thesis aims to know the legal certainty of implementing Penal Mediation as an Alternative Dispute Resolution and prospects of applying Alternative Dispute Resolution in the Indonesian Criminal Justice System. The approach used in this research is a qualitative research approach that produces descriptive data in the form of people’s written or oral words and observable behavior. The type of research that will be used in this research is doctrinal research. Penal mediation is an alternative form of resolving disputes outside the court (commonly known as ADR or “Alternative Dispute Resolution” and some call it “Appropriate Dispute Resolution”). Penal mediation for the first time is known in positive legal terminology in Indonesia since the issuance of KAPOLRI No. Pol: B / 3022 / XII / 2009 / SDEOPS dated December 14, 2009 concerning Handling Cases through Alternative Dispute Resolution (ADR), even though they are partial. In essence, the principles of mediation of the penalties referred to in this KAPOLRI letter emphasize that the settlement of criminal cases using ADR, must be agreed by the parties that litigate, but if there is no new agreement resolved in accordance with applicable legal procedures in a professional and proportional manner (Anggraeni, A. (2020). Penal Mediation as Alternative Dispute Resolution: A Criminal Law Reform in Indonesia. Journal of Law and Legal Reform, 1(2), 369-380. DOI: https://doi.org/10.15294/jllr.v1i1.35451).

India—Certainly, the basic definition of law says that law develops with the development of the society. Although the concept of plea bargaining is not new to India as it was already recognized under Article 20(3) of the Constitution. Initially when plea bargaining was implemented it was hard for the Indian system to accept the concept of its disadvantages, but the law must grow rapidly according to the changes in the society and over a period Criminal Justice system has reformed its standards both legally and socially. In India the Plea-bargaining process is a voluntary process with the objective to reduce the burden of the judiciary and to provide fast and expeditious justice. However, the very essence of ADR is lost if it is not implemented in the true ethos. The role of the judiciary and the bar is especially important for the successful implementation and to achieve the objective of plea bargaining. There are certain loopholes of ADR in the criminal justice system in India which must be given utmost care to achieve efficacy (Pereira, M., & Kapoor, K. (2023). Alternative Dispute Resolution in Criminal Matters. *Supremo Amicus, 32, 84*).

Therefore, the aim of this article is to deal with interrelated issues of integrating mediation process as a criminal dispute resolution program in to the formal criminal justice system, and it’s importance in consolidation of the ideas of restorative justice in the administration of Ethiopian criminal justice system. The article also aims to provoke legislatures, policy makers and social workers to work towards promoting, adapting and applying compatible traditional criminal dispute resolution process in a criminal justice context as part of an overall package of Ethiopian Criminal Justice Reform (Edossa, J. (2012). Mediating criminal matters in Ethiopian criminal justice system: The prospect of restorative justice system. *Oromia Law Journal, 1*(1), 99-143). Although we believe that criminal law and dispute resolution scholars have much to learn from one another, plea bargaining is undoubtedly a unique form of dispute resolution, and any attempt to apply the generic lessons of negotiation theory to criminal law must be undertaken with great care. Indeed, one may object even to our premise that plea bargaining can appropriately be labeled a form of dispute resolution—arbitration—a term that calls to mind the allocation of limited material resources between two parties of roughly equal legal and moral status. By contrast, it might be said that plea bargaining is a transaction between very different sorts of parties (the state and the citizen), and one whose ultimate goal is the moral condemnation of one by the other. Viewed this way, there seems a fundamental asymmetry between the status, power, and objectives of the two sides that differentiates plea bargaining in profound ways from other sorts of negotiation more commonly studied by dispute resolution scholars (O’Hear, M. M., & Schneider, A. K. (2007). Dispute resolution in criminal law. *Marq. L. Rev., 91*, 1.).

Plea Bargain as a Form of ADR in Criminal Proceedings Plea bargain can be defined as a process whereby an accused person and the prosecutor enter into negotiation towards an agreement under which the accused person will enter a plea of guilt in exchange for a reduced charge or a favourable sentence recommended to the judge by the prosecutor (Ibidapo–Obe, A. (2010). Restorative Justice

It is generally argued that criminal justice system is entrusted with the responsibility for controlling criminal behaviour and punishing the offenders. The process commences with the commission of a crime and continues with subsequent interventions by the law-enforcement agencies. However, many factors come into play in determining whether or not the whole process runs its full course, considering its inefficiency in recent times. Using a qualitative method, this article examines the effectiveness or otherwise of the newly introduced alternative dispute resolution (ADR) in terms of the Administration of Criminal Justice Act, 2015, in order to ascertain whether or not the concept is comprehensive as a mechanism for protecting the victims, the accused person and society. The findings revealed that the current criminal justice system in Nigeria is poor, ineffective and in dire need of reform. The article therefore recommends, among other things, that Nigeria move away from the conventional retributive justice system and incorporate a restorative or reparative justice system. ADR should also be strengthened in order to provide for effective and timely dispute resolution that is able to support a modern economy. Furthermore, there should be more training courses for all the participants in the justice system, as training will serve to enhance the effective administration of criminal justice in Nigeria.

The reason is evident in the provisions of sections 127–130 of the Criminal Code, which relate to the concept of the compounding and concealing offences which do not enjoin victims to ordinarily withdraw criminal cases against the offenders, since the buck of criminal proceedings lies with the state and not the victims. These provisions show that ADR is not encouraged in felony offences, which hinders the effective application of ADR in all criminal cases. More importantly, there is the likelihood of jettisoning the punitive aim and restricting the retributive justice employed in criminal law with the application of ADR. Interestingly, despite these enactments, the application of ADR has traditionally been recognised in the Nigerian criminal justice system. For instance, in the traditional Tiv, Igbo and Northern part of the country, the concept of ADR has been entrenched. Similarly, rules of some courts in Nigeria have encouraged the application of ADR in criminal matters. For instance, section 26 of the District Courts Law of Katsina State provides that: A District Court shall, so far as there is proper opportunity, promote reconciliation among persons over whom such a court has jurisdiction, and encourage and facilitate the settlement in an amicable way without recourse to litigation of matters in difference between them. In the same vein, section 17 of the Federal High Court Act provides that “in any proceedings in the court, the court may promote reconciliation among parties thereto and encourage and facilitate the amicable settlement thereof”.

Further, sections 151, 204, 208, 209 and 223 of the Child Rights Act (CRA) have a set of objectives of ADR, when the CRA empowered the Family Court to hear and determine criminal cases involving children in Nigeria and a child within this spectrum cannot be subjected to the adult criminal processes, but can only be subjected to the child justice administration process which applies a welfare-based approach in dealing with cases involving children. In section 209,73 the police, prosecutors or any other person dealing with a case involving a child offender is empowered “to dispose of cases without resorting to formal trial by using other means of settlement including supervision, guidance; restitution and compensation of victims especially in non-serious offences”. In section 223(2) of the Act, the Court is enjoined to exercise discretion in how to deal with the case after determination of the guilt of the child, including the omnibus clause to deal with the matter in any other manner legally permitted. Thus, the principle objective is to make the imposition of confinement a last resort and to be ordered only where there is no other way of dealing with the child. Apart from the above provisions, the application of ADR is also encouraged under the concept of plea bargaining. In this regard, section 14 of the Economic and Financial Crimes Commission Act empowers the commission “to compound offences in order to obtain practical restitution”. This concept has been in existence since 2007 in Lagos State Administration of Criminal Justice Law and it has been finally incorporated into the Administration of Criminal Justice Act (ACJA), 2015. Under the ACJA, the concept of plea bargaining has general application in all Federal Courts in Nigeria. It stands to be applied by all 36 states of the Federation upon domestication of the Act – which has been applicable in Lagos State since 2007 and amended in 2011, and the provisions are part material with section 270 of ACJA (Abdulraheem-Mustapha, M. (2018). Strengthening the Criminal Justice System in Nigeria through alternative dispute resolution. *Journal of Law, Society and Development, 5*(1), 33-pages.)

Practice of ADR in criminal justice system The research participants were asked about the practices of ADR in criminal justice system. The research participants claimed that Pakistan is the first country which took this matter very seriously. Pakistani government legislate this matter in criminal justice system. Pakistan is the first country in the world which legalized ADR in criminal justice system. One of the research participant reported that ADR is a very effective mechanism which is recognized by state in Pakistan to overcome ever compiling cases in Bhatti, & Rizwan courts. However, practically ADR services are not available in Pakistan. Although legislation of ADR is complete but practice is delayed because of diverse factors which are beyond the scope of current study (Bhatti, M. U., & Rizwan, M. S. (2023). Alternative dispute resolution in criminal justice system: a case study of the Punjab ADR act 2019. *Pakistan Journal of Social Research, 5*(01), 181-195.).

In Bangladesh, though, the concept of ADR is already incorporated in different civil laws particularly applicable in civil litigations. In criminal justice system of Bangladesh ADR has not yet been broadly initiated. The idea of ADR in criminal cases is inspired in the case of Md. Joynal and others vs. Rustam Ali Miah and others (1984, 36 DLR (AD) 240). Two types of ADR in criminal justice system are found worldwide namely, „Compounding of Offence“ and „Plea Bargaining“. In Abdussatter and others vs. The State and other(1986, 38 DLR, AD), the Appellate Division opined that “our criminal administration of justice encourages compromise of mere certain disputes and some of the particular cases can be compounded as provided by section 345 of the Code of Criminal Procedure“. Compounding of offences means settlement through compromise and amicable solution with or without the permission of court (Chowdhury, M. A. A., & Fahim, M. H. K. (2018). An Overview Of The Practice And Prospect Of Alternative Dispute...
Alternative Dispute Resolution (‘ADR’) is a long-standing feature of both Australian and UK anti-discrimination law. In this article, we critically examine the advantages and disadvantages of using ADR to resolve a discrimination claim in Australia and the UK, and the effect ADR has on discrimination law more broadly. While the UK and Australia have similar discrimination law statutes, and both largely rely on an individual rights model to address discrimination, they use ADR in contrasting ways, and with varying implications in practice. We argue that while ADR offers potential benefits in resolving discrimination claims, the extensive reliance on ADR in both jurisdictions to resolve disputes risks undermining the development of discrimination law. We offer five key areas in which the regulatory framework could be reviewed to address these limitations and risks.

The ‘women’s court’ (mahila adalat or mahila mandal) is a fairly recent but increasingly prevalent phenomenon in contemporary India. A particular kind of alternative dispute-resolution forum specifically designed to address women’s marital and related family problems, it aims to provide a safe and unthreatening environment wherein women can air their grievances, work out satisfactory settlements with husbands and in-laws, or find ways to escape their difficult situations altogether. It encourages women to resolve domestic disputes informally, rather than by resort to the state’s judiciary institutions. Most women’s courts are run by women’s NGOs, often with financial support from foreign donor agencies or, in some cases, from governmental or semigovernmental agencies such as State Women’s Commissions or Legal Aid Societies. This paper discusses the structure and workings of some of these women’s courts, based on two decades of ethnographic observations and interviews in such venues as well as on the work of other scholars who have studied similar bodies more intensively than I. It highlights some of the unique features of these ‘courts,’ shows why they are the forum of choice for so many poor women, and asks how effective they are in delivering justice to those who come to them for help.

The need for alternative dispute resolution and its importance is not a new discovery. Various kinds of informal agreements existed throughout the world when Alternative Dispute Resolution was not legally recognized as such. It first, however, was employed only in civil cases, and criminal justice system was exempted from it. The state undertook the responsibility to impose sanctions (which is very much the case even now) in criminal matters and the idea of informal settlement in these cases arrived much later globally. This article seeks to put some light on two systems, that is, India’s accusatorial system and Germany’s inquisitorial system of trial, and how both the countries have gradually come up with alternative dispute resolution techniques, with the primary focus being the victim–offender mediation programmes (VOMPs) and plea bargaining. The article shall give an overview of the guiding principle behind these programmes, that is, restorative justice and further trace the historical development and the present situation in both the countries. This is a comparative analysis which shall put forth the best out of both and give suggestions to improve the existing situation, while taking learning lessons from both the countries (Bajpai, M. (2018). Advancing of restorative justice in criminal law in India and Germany: A comparative study. Journal of Victimology and Victim Justice, 1(1), 102-112.).

Alternative Dispute Redressal (ADR), which refers to the process of dispute resolution, denotes the idea of making the system of delivering justice friendly to the disputed parties and ensuring quick resolution of the disputed cases. As ADR is now a widely accepted process in a number of disputed contexts, it is compelling the policymakers to introduce it in other viable sectors. Criminal cases relating to petty offences can be considered as one such area. The criminal justice system emphasizes the role of the state in resolving offences to ensure peace and to protect the life and property of its subjects. However, it should be noted that many offences do not fall under the category of crimes affecting the state, but affecting only a particular individual or a group of individuals. In such cases, ADR can act as a viable option for resolving disputes between the victim and the offender. This article advocates that, when applied to criminal justice system, ADR would make it work more efficiently (Shankar, U., & Mishra, V. (2008). Exploring Viability of Introducing ADR in Criminal Law. ICFAI Journal of Alternative Dispute Resolution, 7(3)).

Compromise in criminal case is possible in any stage even in appellate stage but before the pronouncement of judgment (karim, 2015).

Insertion of ADR in criminal litigation does not substitute the court system but strengthens the criminal judiciary (Gulfam, 2014). The foregoing studies provide statistical evidence of court-connected ADR programs fulfilling established goals and providing measurable benefits to courts and disputants; however, there are other studies that provide less clear results. For example, an examination of the Settlement Program for the Northern District of Oklahoma USA, a program requiring the pro bono assistance of local attorneys as “adjunct settlement judges” providing early evaluation of disputes, was viewed as a success by surveyed judges; but the study’s author pointed out that the 50 percent rate of resolution compared unfavorably to the results achieved in private ADR, and raised questions about the pro bono character of the program and the limited training received by participating adjuncts (Stipanowich, T. J. (2004). ADR and the “Vanishing Trial”: the growth and impact of “Alternative Dispute Resolution”. Journal of Empirical Legal Studies, 1(3), 843-912.).

To sum up, it is inferred that, Alternative Dispute Resolution is an alternative mode of resolving of disputes without going into formal litigations by the parties. It is a good way for speedy settlement of disputes. The ADR system has its historical background in Pakistan. Keeping in view the utility of ADR system, special laws are codified in Pakistan. These laws are including, the Alternative Dispute Resolution Act 2017, Punjab Alternative Dispute Resolution Act 2019 and Khyber Pakhtunkhwa Alternative Dispute Resolution Act 2020. Under these Acts a specific process has been provided, wherein, both the parties can resolve a dispute through the alternative system of ADR, without formal court cases against each other by the process of negotiation, mediation and conciliation by the medium of ADR. There is difference in the procedure of all the Acts, however, aim of all the Acts are the same that is to provide inexpensive and expeditious justice to the people by means Alternative Dispute Resolution System. The ADR system is compatible in Pakistan and it can result into reducing the burden of pending cases on the judiciary (Khan, H., Afzal, U.,
Khyber Pakhtunkhwa Alternate Dispute Resolution Act of 2020 & its accompanying Rules of 2021, establishes mechanism for expeditious and cost-effective resolution of disputes without resorting to formal litigation. However, it lacks the fundamental principles found in the legislation. This mechanism lacks specialized individuals and instead involves bureaucratic control; lacking legal expertise. It is important to recognize that the “resolution of disputes” falls solely within the domain of the “Judiciary”, as mandated by the Constitution of Islamic Republic of Pakistan 1973. The mechanism's reliance on indemnification raises concerns about required standards of competence, legal understanding, neutrality, impartiality and efficiency of the suggested Saliseen. Article 37 (d) of the Constitution of Pakistan binds State to: "ensure inexpensive and expeditious justice". However, provincial legislature in Khyber Pakhtunkhwa misinterpreted these words in devising this mechanism. In essence, these words merely pertain to the cost and time involved in the justice process. Costs can be minimized through various means of providing legal aid, while time can be reduced by allocating the necessary resources to sector constitutionally responsible for dispensing justice. This Article in no way authorizes State to create separate forums to exercise judicial functions. Mechanism provided mirrors the day-to-day business of the Courts, indicating a lack of thorough research. Even the existing alternate dispute resolution methods within the judicial system have not been carefully examined, despite their use in Court proceedings. Via this mechanism, Section 89-A of the Civil Procedure Code of 1908 empowering Courts to facilitate mediation and conciliation in an organized, supervised, and authentic manner, was also repealed. Precisely; without adhering to the basic principles of alternate dispute resolution, which involve “bringing parties together in a dialogue to settle disputes in a manner that ensures neither party considers it a compromise of their rights but rather an effort to end the rivalry in a safe and controlled environment”, this system will likely face resistance from society & remains in Statute books or appear functional only in reports of dispute resolution councils; followed by subsequent litigations. Above discourse led to following recommendations: a. Scope of this mechanism may be specifically defined for diverse litigation in relevant laws, rather than through General Schedule. b. This mechanism may be facilitated through the Courts as it is the general perception of society that Courts are the ultimate institutions where fair justice can be obtained. Beside this, Courts possess the legal expertise and acumen necessary to deal with such matters effectively. c. Proper ADR Courts may be established at the District and Tehsil levels. These courts would be responsible for conducting pre-trial proceedings and facilitating mediation or conciliation attempts with the consent of the parties involved. d. Direct recommendation of criminal cases by Police may be ceased as their role is to ensure investigation and law enforcement, while the responsibility of representing the State and overseeing the ADR process should rest with the Prosecution Department. This approach safeguards the fundamental rights of victims and offenders as guaranteed by the constitution until the initiation of a trial, if required. e. Instead of relying on retired judges, bureaucrats, ulema, or notable individuals from society, a proper mechanism could be developed for the selection of mediators, facilitators, negotiators, or conciliators. These individuals should possess mandatory legal knowledge and psychological skills, and they should undergo compulsory training and examination. Resolving disputes between parties is not a part-time or retirement job; it requires dedicated professionals. To ensure this, the universities of Khyber Pakhtunkhwa should be involved in including compulsory subjects in their courses and providing sufficient resources for those subjects. f. Essential trainings followed by examinations for mediators, conciliators, and arbitrators should be conducted. g. Role of the District Administration should be restricted for necessary resources and all judicial functions should be removed from their purview. Their responsibilities should focus solely on administrative matters. h. A proper mechanism may be established to monitor the ADR courts, mediators, conciliators, or facilitators, with oversight and control. No indemnity should be granted to ensure Shahzad, & Ali 1294 transparency in this mechanism at all. This approach will allow the collection of empirical data and enable the utilization of results for the improvement and development of mechanism. i. Society views litigation expenses as remuneration paid to Counsels, professionals and general expenses incurred during legal proceedings. Therefore, a proper mechanism may be implemented to provide free legal aid with facilities to parties in vulnerable conditions (Shahzad, K., & Ali, A. (2023). Access to Justice: A Critical Analysis of Khyber Pakhtunkhwa Alternate Dispute Resolution Act 2020. Pakistan Journal of Social Research, 5 (2), 1288, 1295.).

Analysis of ADR Act, 2017 (Islamabad) The Alternative Dispute Resolution Act 2017 was promulgated on 30th May, 2017. In this Act, the processes of arbitration, conciliation and mediation are provided as Alternative Dispute Resolution. This is the first codified special law regarding ADR in Pakistan. In this Act, it has been provided that each civil dispute as enumerated in the schedule shall be reoffered by the court to ADR, except where the parties having no consent, where it is satisfied by the court that the matter cannot be resolved through ADR or where any material question of law and fact is involved. Under this Act panel of Neutrals have been provided including experienced lawyers, retired judges, retired civil servants, ulamas, jurists, technocrats and experts, whom shall conduct ADR proceedings in the ADR centers. In this Act time frame has been provided for ADR proceedings, whereby a matter shall be disposed of within 30 days, extendable by next 15 days on request of Neutral. After successful conclusion of ADR proceeding, the Neutral shall record settlement and grant award. The same will be submitted to concerned court. After submission of award, judgment shall be announced and decree shall be passed in light of terms of the award. It has also been provided that if the efforts of the Neutral failed for resolution of the dispute, the same may be referred to the court concerned. In order or decree, passed by the court in consequences of ADR proceedings shall be executable under the relevant law. In addition, the court can also appoint Neutral to conduct ADR proceedings in compoundable offences, under the criminal law. Under the provisions of this Act the court or the Neutral may hire the evaluator for expert opinion to sort out any financial issue or other technical nature. Under this Act no appeal or revision is maintainable from the decree or any order of the court.

The Punjab Alternate Dispute Resolution Act 2019
3. Method and Methodology
A qualitative research methodology was adopted in this article for the purpose of examining the strength of the criminal justice system in Nigeria using an ADR mechanism. The method involves both doctrinal and non-doctrinal approaches. The doctrinal approach covers primary and secondary sources of materials. The primary materials include statutes, case law and other official documents. The secondary sources, on the other hand, include existing literature in the area of studies such as books, newspapers, magazines, journals and articles on the internet. The doctrinal approach therefore helps with identifying both the laws and the works of various scholars relevant to ADR and the administration of criminal justice.

4. Challenges
4.1. Problems with arbitration
Arbitration has so many similarities with litigation, because of these similarities, many scholars and jurists have argued that arbitration is not an alternative to litigation. Arbitration itself is becoming more formal with the same procedures as litigation; lawyers apply delay skills of complex legal arguments and procedures into the arbitral process. In essence, arbitration is really a court process since once it is over, an award has to be filed in court, however, the advantage it has over litigation is that it saves time, resources, and is not fraught with unnecessary delays. Arbitration can only commence if there is a valid arbitration agreement between the parties before the dispute which agreement must be in writing as provided under Arbitration and Conciliation Act in its section 1. Arbitration is a binding form of ADR as against mediation, conciliation and negotiation. The arbitrator can be regarded as a private judge who determines issues between two or more disputing parties. Arbitration is no doubt the most widely used ADR both nationally and internationally.

4.2. Mediation
According to Black’s Law Dictionary, mediation is a method of non-binding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution. Mediation as defined in Oxford Dictionary of Law7 means a form of alternative dispute resolution in which an independent third party (mediator) assists the parties involved in a dispute or negotiation to achieve a mutually acceptable resolution of the points of conflict. The mediator, who may be a lawyer or a specially trained non-lawyer, has no decision-making powers and cannot force the parties to accept a settlement. According to Haynes, ‘Mediation is a process in which a third person helps the participant in a dispute to resolve it. The agreement resolves the problem with a naturally acceptable solution and is structured in a way that helps maintain the continuing relationship of the people involved’. Simply put, mediation is negotiation assisted by a third party. It is voluntary, informal, consensual, confidential and not binding on the parties. The mediator’s sole function is not to decide the parties or determine right or wrong, but to help the disputants resolve their conflict consensually.

4.3. Definitional issues
“Alternate Dispute Resolution (ADR)” means a process in which parties’ resort to resolving a dispute, other than through adjudication by courts, and includes, but is not limited to, mediation, conciliation and evaluation (section 2 of The Punjab Alternate Dispute Resolution Act 2019).

No protection to public rights/ no assurance of quality of decision
However, a criticism of ADR is that there is no guarantee that it protects the public’s interest in eliminating discrimination (such as through systemic remedies) or that it protects individual rights through individual remedies (Fiss, O. M. (1983). Against settlement. Yale Lj, 93, 1073.). 116 This is particularly problematic if courts use ADR purely as a case management technique in an effort to prevent too many claims from swamping an already busy court system: the focus then turns to reaching a settlement, rather than what the settlement is. Indeed, Acas’s key performance indicators include: ‘The promotion of a settlement in disputes in which Acas is involved (Acas, Advisory, Conciliation and Arbitration Service (Acas) Annual Report and Accounts 2015/16, Acas, HC 550, Stationery Office, 2016, at 34.).’ 117 There is no mention of the quality of settlements in Acas’s KPIs. For Thornton, this reflects the nature of ADR as a bureaucratic phenomenon, which focuses on ‘efficiency measured by the number of complaints resolved (0 M Thornton, The Liberal Promise: Anti-Discrimination Legislation in Australia, Oxford University Press, Melbourne.)

4.4. No development of substantive law
While there are certainly benefits in using ADR, particularly in jurisdictions in which claimants are often disadvantaged, due to the time, cost and formality of litigation, there are also drawbacks, including for the development of substantive law and in achieving broader social change. In this Part, we explore what the practice of ADR in both countries reveals about the benefits, limitations and challenges of using ADR to resolve discrimination disputes in particular. In the final part of this article, we propose five ways the current system could be strengthened to overcome the weaknesses we identify in the regulatory model (Blackham, A., & Allen, D. (2019). Resolving discrimination claims outside the courts: alternative dispute resolution in Australia and the United Kingdom.).

5. Possibilities
The system typically has three components: Law enforcement (police, sheriffs, marshals), the judicial process (judges, prosecutors, defense lawyers), and Corrections (prison officials, probation officers, and parole officers). This three agencies operate together both under the rule of law and as the principal means of maintaining the rule of law within society. Most write-ups on ADR contain few or no alliances to crime. This is because ADR is primarily described as a means of settling disputes between parties without resort to litigation; it does not welcome the idea of settling disputes between the state and an offender. The Criminal Justice System emphasizes the important role the state has to play to maintain order and peace in the society and to protect its citizens and their properties, the state have refused to withdraw from this duty. Is there really a better alternative to an accused being taken to court?
Plea bargaining is an agreement in a criminal case between the prosecution and the defence, whereby the accused pleads ‘guilty’ as against ‘not guilty’ in return for an offer by the judge that he will minimize the sentence if the accused pleads guilty or an entirely different offer by the prosecution, for instance, dismissal of other charges. However, it must be pointed out that this concept is not yet developed in Nigeria as it is now in developed western countries, it is hoped that in no distant time, this will come to help minimize the workload on the courts in the criminal justice system with its other numerous benefits. Plea bargaining is therefore advocated for to be introduced in Nigeria as an alternative to litigation. In doing this therefore, one has to state that it offers more advantages than disadvantages in that ADR reduces delay, offers greater satisfaction to aggrieved parties and at a reduced cost. It offers a reduction in the workload of the court and simplifies most of the procedures. It provides a less confrontational means of resolving dispute, increases access to justice while restoring relationship among disputants. It is opined that ADR is not without its disadvantages but obviously the advantages it offers far outweigh its disadvantages.

From the above, there is no doubt that ADR is here to stay. Its growth has been enhanced as the fact that time, money, and energy input to litigation is often not worth the efforts at the end. Considering the advantages of ADR, it’s obvious that the only way to decongest the courts and allow for settlement of disputes especially those bothering on criminal matters amicably is through the various ADR methods. We are therefore of the opinion that even in criminal justice system, the future of ADR in Nigeria is bright and promising in bringing about a society where disputes are disposed of more expeditiously and at lower costs, without having to resort to judicial settlements.

Possibilities in the legal framework (The Punjab Alternate Dispute Resolution Act 2019)

5.1. Reference in criminal disputes

(1) A court shall refer a case falling under section 345(1) of the Code to ADR [person] as follows:

(a) in a case arising out of a police report:
   (i) on the application by the concerned public prosecutor with the consent of the complainant at any time before framing of the charge;
   or
   (ii) on its own within seven days of the framing of the charge;

(b) in a case arising out of a complaint, on its own, within seven days of the summoning of the accused

(2) A court may refer a case falling under section 345(2) of the Code to ADR [person] as follows:

(a) in a case arising out of a police report, with the agreement of the public prosecutor concerned, at any time after framing of the charge

(b) in cases arising out of a complaint, with the [consent] of the parties to the case, at any time after framing of the charge

(3) In every case where a reference is made to ADR [person] under this section, the court shall provide a time period for completion of the ADR proceedings not exceeding [sixty] days:

   provided that the court may, on application of the parties to the case, extend the said time for a further period of [sixty] days.

(4) The court which makes a referral to ADR [person] under subsection (1) shall postpone the trial of the case till the completion of the time allotted for ADR proceedings under subsection (3) unless there are compelling reasons to proceed with the trial.

(5) A court which makes a referral under subsection (2) shall proceed with the trial in the manner provided by the Code.

5.2. Power to record evidence during postponement

(1) Nothing in section 3 or 4 shall prohibit or restrain the court from recording evidence which is likely to become unavailable due to postponement of trial.

(2) The court may order the recording of evidence of such person on its own or on the application of any party to the trial including the public prosecutor.

5.3. Power to refer a case to ADR [person] at any time

(1) Nothing in section 3 or 4 shall prohibit or restrain a court from referring a case to ADR [person] at any stage of the case with the consent of the parties.

(2) Where a referral is made under sub section (1), the court may if it thinks fit:

(a) fix a time period for completion of ADR; and

(b) postpone the trial during the period given for completion of ADR proceedings.

5.4. Selection of ADR person

(1) The parties to the case may, with their mutual consent, select ADR person who shall undertake ADR.

(2) Where the parties are unable to agree on one or more persons for conduct of ADR proceedings, the court shall provide a list of accredited ADR service providers [and] ADR centers to the parties for selection.

(3) Where the parties are unable to arrive at a common decision, the court shall make a reference to an accredited ADR service provider or ADR center in the prescribed manner.

Return to court

(1) A case referred to ADR person shall be returned to the court on completion of ADR proceedings or on the expiry of the time provided under section 3 or 4 of the Act, whichever is earlier, in such manner as may be prescribed.

(2) An ADR service provider or an ADR center or ADR person shall retain a copy of the settlement, award or agreement, notices and any other document or correspondence made in writing during the ADR proceedings.]
References


