

# Critical Analysis of Mediation Law of Islamabad (Alternative Dispute Resolution Act, 2017)

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## Abstract

Justice is the base and foundation of a society. The entire judicial device of the contemporary system is based upon this fundamental principle. The grave implication of inefficient disposal of justice which leads to frustration, lack of confidence in the litigation process, and the exorbitant cost of litigation. The idea of Alternative Dispute Resolution (ADR) is not novel and is deeply rooted in our society in specific forms along with '*panchayat*' or '*jirgah*'; the modern formal adjudication system could not fulfill the needs of the litigants. With the development in the neighborhood and worldwide laws, it has resulted in formalizing the guidelines for the substitute-based approaches in Pakistan (Alternate Dispute decision Act, 2017) to solve the disputes and fashion a separate sphere of legal practice. The research is geared towards the future of the ADR Act, 2017 in Pakistan and the way it is going to be effective for fast and expeditious justice for folks who are not satisfied with the litigation process. The qualitative research methodology was applied to explore and critically analyze the enactment. The objective of this research is to investigate the impediments to mediation in Pakistan and the prospects of extension via an exclusive approach. It is observed that mediators continue to be key to the fulfillment of the manner which might be imposed upon otherwise unwilling parties. It requires the competence, ability, and

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charisma of the mediators that could make the litigants believe in the process. Furthermore, it was also observed that the Alternate Dispute resolution Act, of 2017 paves the path however it is not exhaustive nor comprehensive, so another legislative upgrade is required.

**Keywords:** ADR, Mediation, Act 2017, Mediation Law Islamabad

## 1. Introduction

Any technique of resolving a dispute apart from by means of the very last court docket order in litigation is referred to as ADR. It covers each adjudicative (arbitration, professional dedication, adjudication) and non-adjudicative techniques (mediation, negotiation, conciliation, and early impartial evaluation). At the same time as adjudicative approaches are more formal and parties have less manipulation over the outcome, non-adjudicative strategies have more involvement of the parties and more scope for innovative settlements in conjunction with privacy and confidentiality.<sup>1</sup> One of the primary motives parties opt for ADR in their lawsuits is that, in contrast to adversarial litigation, Alternate Dispute procedures are often collaborative and permit the parties to apprehend every different position. It additionally permits the parties to be provided with more creative solutions that a court docket would not be legally allowed to impose.<sup>2</sup>

The term 'Alternative Dispute Resolution', in a very accurate manner, is an alternative parallel system to adjudicate the matters informally. ADR is a method to resolve disputes outside the premises of formal judiciary and adjudication bodies by the appointment of an

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<sup>1</sup>Alternate Dispute Resolution, <https://jamapunji.pk/protect-yourself/what-alternative-dispute-resolution>, Last Accessed May 2021.

<sup>2</sup>Mitropoulos Panagiotis and Howell Gregory, "Model for Understanding, Preventing, And Resolving Project Disputes", *Journal of Construction Engineering and Management*, 127: 3(2001), 63-70. [www.researchgate.com](http://www.researchgate.com) . Last Accessed: May 2021.

intermediary to settle the matters. It refers to techniques through which resolution takes place other than courts and includes, but is not confined to, arbitration, mediation, conciliation, and neutral assessment.<sup>3</sup>

ADR is not a novel legal pathway for resolving disputes, rather it has been the mainstream mechanism. Almost all the societies had an ADR system alongside the formal and official court system. It can be said that ADR is a modern revival of past time community service of the folks and experienced people as the present-day mediation experts. Though not all countries<sup>4</sup> have had the same positive effects still most praise it.

## **2. Alternative Dispute Resolution System in Pakistan**

The Constitution of Pakistan, 1973 lays down the basis for ADR. It does not mention ADR directly, but it presents well-known guidelines for it. Article 2A, inter alia, requires the state to provide a social structure which enables Muslims of Pakistan to live a life in accordance with Islam in social, political, and financial matters. Whereas in Islam, there is a concept of *tahkim* and *sulh* for dispute resolution<sup>5</sup> which can be materialized via the ADR mechanism. Moreover, Pakistan is a signatory of various treaties which recognized and enforce arbitration such as the Economic Cooperation Organization (ECO), South Asian Association for Regional Cooperation (SAARC), World Trade Organization (WTO), United Nations Commission on International Trade Law (UNCITRAL), and World

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<sup>3</sup>Section 2(a), Alternative Dispute Resolution Act, 2017, The Gazette of Pakistan, Extraordinary Published by Authority, Islamabad, 30 May 2017. Available at [https://na.gov.pk/uploads/documents/1495101925\\_486.pdf](https://na.gov.pk/uploads/documents/1495101925_486.pdf) Last Accessed, March 2021. (Hereinafter ADR Act 2017).

<sup>4</sup>Jeffrey W, Stempel. "Reflections on Judicial ADR and the Multi-door Courthouse at twenty: fait accompli, failed overture, or Fledgling Adulthood", *Ohio St. J. on Disp. Resol.* 11 (1996): 297.

<sup>5</sup>Qazi Attaullah and Lutfullah Saqib, "Tracing the Concept of ADR in Shari'ah and Law - A Comparative Study", *Hamdard Islamicus*, XXXIX 3: 30 (2007).

Intellectual Property Organization (WIPO).<sup>6</sup> At a domestic level, various laws were formulated for this purpose such as:

3. The Small Claims and Minor Offences Courts Ordinance of 2002.
4. Sections 102-106 of the SBNP Local Government Ordinance of 2001.
5. Chapter XXII of the Code of Criminal Procedure of 1898 (summary trial provisions).
6. The Arbitration Act of 1940.
7. Alternative Dispute Resolution Act 2017.

The introduction of ADR legal instruments in Pakistan was not a mere legislative initiative rather the apex Judicial authority<sup>7</sup> instituted a committee to establish ADR in collaboration with the Law and Justice Commission of Pakistan. The committee as constituted by the chief justice of Pakistan aims to incorporate a mechanism of ADR throughout the country. The members of the committee include chief justices of all the provincial high courts, the law secretary, and members of provincial and federal judicial academy.<sup>8</sup> This committee is not only providing a supporting role for ADR mechanism institutionalization in Pakistan instead regulating the same as well.

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<sup>6</sup>Salman, Ravala. "Alternative Dispute Resolution in Pakistan", available at [https://www.nyulawglobal.org/globalex/Pakistan\\_ADR.html](https://www.nyulawglobal.org/globalex/Pakistan_ADR.html), Accessed 10 June 2021.

<sup>7</sup>Alternate Dispute Resolution Committee, Law & Justice Commission of Pakistan Islamabad, IJCP, Available at <http://www.ljcp.gov.pk/ADR/index.html>, Accessed March 2021.

<sup>8</sup> Ibid.

## **8. Alternative Dispute Resolution Act, 2017**

The ADR mechanism is expanding and getting its due place in Pakistan at a very high momentum. Recent legislation includes Islamabad's Alternative Dispute Resolution Act, 2017 and draft accreditation rules. ADR Act, 2017 was adopted in Pakistan on 30th May 2017. The said act details the ADR techniques to be implemented and the procedural details for civil matters. The ADR tools provided via ADR Act, 2017 include, but are not limited to, arbitration, mediation, conciliation, and neutral evaluation. Its subjects include civil, commercial, and family law, freedom of association, collective bargaining, and industrial relations.

ADR is being adopted and applied worldwide in domestic and international litigation. The expedient, reliable and quite personal resolution of conflicts is what attracts people towards ADR. Mostly, the commercial matters are being addressed via ADR. The principle working underneath this process is to resolve a conflict between the two parties without involving the authoritative role of the third party. Instead, a party appointed to facilitate the resolution of conflict is considered to be unbiased and mutually agreed upon as well not imposing the rule rather aiding the solution.

The use of Alternative Dispute Resolution (ADR) has become widely accepted as the quickest, most efficient, and confidential way to resolve disputes between parties, particularly in commercial sectors worldwide. The legal principle behind ADR is to resolve disputes outside of court, with the assistance of an impartial third party who uses their expertise to resolve the matter through mutual agreement and award, based on the evidence available, while avoiding the parties from the technical complexities of procedural law. Unlike court orders that may favour one party over the other, in arbitration, both parties agree to certain conditions

and ultimately reach a mutually satisfying resolution. Nowadays, arbitration has become the mainstream method for resolving commercial disputes and offers an alternative to the "one size fits all" approach of traditional litigation processes. Unlike traditional court proceedings, technical rules of procedure and evidence are not always applicable in ADR.<sup>9</sup> However, as different communities and international laws have evolved, ADR has become more complex.

The purpose of this Act is to provide an alternate system for civil and criminal disputes which would be speedy and ensure justice. This Act facilitates the settlement of disputes without resorting to formal litigation. The ADR Act, 2017 was legislated particularly for the speedy and immediate resolution of conflicts. It needs to be considered and is noteworthy that the referral of dispute for ADR is mandatory with the exception of certain circumstances where the court is of the opinion that such a dispute cannot be resolved by way of ADR.<sup>10</sup>

When the parties agree the court docket shall refer civil matters mentioned in the schedule to ADR for settlement.<sup>11</sup> ADR specifically follows three modes of resolution: arbitration, mediation, and conciliation. At the same time as referring to the matter for ADR, the court shall appoint a neutral or any other person agreed upon by both parties.

The parties to the dispute are required to participate in the ADR proceedings in a personal capacity or through duly authorized representatives or attorneys. The matter is to be disposed of within thirty days after referral from court. The referred issue may be resolved by

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<sup>9</sup>Majid Ali & Li Lu Geng, "Alternative Dispute Resolution (Adr) in Pakistan: The Role of Lawyers in Mediation Procedure", *International Journal of Research* 6:4 (2019): 2348-6848, <https://www.researchgate.net/332779955>, accessed April 8, 2021.

<sup>10</sup>Sec3, ADR Act, 2017.

<sup>11</sup>Ibid.

mediation, conciliation, or a different mode of ADR.<sup>12</sup>

Whereas the time frame to resolve matters through arbitration is sixty days. So, the arbitrator is bound by the court to resolve within sixty days. The time is fixed but can be extended<sup>13</sup> if the court deems the grounds for delay or extension suitable.

In case an agreement is reached between the parties as a result of mediation or reconciliation the same should be documented by the neutral. The agreement or settlement document must be duly witnessed and signed by the neutral parties to the matter or their representatives. Afterwards, the settlement must be submitted and reported<sup>14</sup> to the court for the announcement of judgment and issuance of final decree.

Failure of ADR: If the appointed Neutral cannot provide a settlement between the parties, or no award is agreed upon then the matter must be brought into the notice of court. An official report about the facts and proceedings should be provided. Hereinafter, the court will take up the matter from the stage it was referred to ADR.

The court may refer cases falling u/s 345 of the Code of Criminal Procedure, 1898 after consultation with both parties and with their uninfluenced free will based assent to settle the matter via ADR.<sup>15</sup> The parties themselves can refer such offenses to ADR as described in law. The next steps after references are the same as in civil matters. Neutral has to be selected either by the parties or by the court. The appointed neutral has to resolve the case within 30 days of reference. Once the offence is compounded, the neutral has to document the proceeding along with the

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<sup>12</sup>Section 8, ADR Act, 2017.

<sup>13</sup> Ibid.

<sup>14</sup> Section 9, ADR Act, 2017.

<sup>15</sup> Section 13 (1), ADR Act, 2017.

signature of two witnesses and his own.<sup>16</sup>

*Failure:* If Neutral fails to prosecute the same, the court shall take up the matter. While the court proceeding will continue from the stage a matter was referred to ADR initially. The cost and fees of ADR will be the liability of the parties as per mutual agreement.<sup>17</sup> Evaluator has to be appointed by the court for the determination of financial matters.

In the new legislation, upon referring the matter to ADR, the Court shall direct the parties to appear before the Neutral or ADR Centre, as the case may be, on the fixed date and time decided by the Court.<sup>18</sup> The First schedule of disputes includes issues such as those between landlords and tenants, pre-emption disputes, civil matters covered by the Small Claims and Minor Offences Courts Ordinance, 2002, Companies, and banking matters. Section 28 of the subjected Act and section 89-A of the Code of Civil Procedure, 1908, to the extent of Punjab will be repealed upon the enactment of this law. Additionally, the Qanun-e-Shahadat Order, 1984 will not be applicable<sup>19</sup> to any Alternate Dispute Resolution proceedings. The main loopholes or shortcomings are discussed as under:

1. Consent of the parties is necessary for any Alternative Dispute Resolution method.
2. Mostly, the Alternative Dispute Resolution is court supervised.
3. So far, no Court annexed Alternative Dispute Resolution system exists.

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<sup>16</sup> Ibid.

<sup>17</sup> Section 15, ADR Act, 2017.

<sup>18</sup> Section 6, ADR Act, 2017.

<sup>19</sup> Section 28, ADR Act, 2017.



4. The ADR methods do not provide enforcement, which is granted in litigation; therefore, there should be a mechanism wherein ADR decision should give judicial backing just like a consent decree.
5. Parties have the option to discontinue the negotiation proceedings at any stage. This raises significant and valid questions on the credibility and efficiency of the ADR system.
6. Appeal and revision should not be barred.
7. This Act lacks provisions of confidentiality regarding ADR proceedings.

## **9. Mediation Law in Islamabad**

Mediation is not obligatory in the ADR Act, of 2017. There are currently no provisions in the Act that mediation must be taken into consideration as mandatory.<sup>20</sup> Neither is there a provision to settle disputes in a courtroom-annexed mediation. A court could refer a civil dispute to mediation as long as both parties are in favor of it; but they cannot impose or compel mediation provisions on anyone. The courts can refer cases to mediation; however, all parties need to comply with it. They can stipulate a time frame for the mediation to be completed within the given period, which normally includes the result being reported back to the courtroom.

Among ADR strategies, mediation has proved itself to be the most flexible, most powerful, and person-friendly approach. Mediation has set up three predominant streams: commercial, family and network.

All require distinct approaches, but the principle of a neutral third

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<sup>20</sup>Section 7, ADR Act, 2017.

person, helping parties to discover the solution, is essential to all three. Mediation is the most commonly used ADR process, but ADR Act, 2017 does not emphasize on mandatory mediation. The terms ADR and mediation are now used interchangeably, although Alternative Dispute Resolution encompasses more than a few strategies, certainly, one of those is mediation.

In many countries of the world, mediation has been introduced as a mandatory requirement of law.<sup>21</sup> While in ADR Act, 2017 the term mediation has been used but so far it has remained ineffective, due to its non-mandatory nature as far as the courts are concerned.

#### **4.1 Weaknesses/Obstacles Towards Mandatory Mediation**

There is no question that ADR is an effective and powerful tool for the promotion in order to get access to justice, but there are some weaknesses that are acting as barriers to the effective ADR system which can be:

- a. Ignorance and neglect to the mechanism generally.
- b. Inadequacy on the part of legal professionals and officials.
- c. Non-existence of a sustainable and well-functioning mechanism.
- d. Lack of experts to facilitate and regulate mediation.
- e. Reluctance among lawyers to practice mediation professionally.

#### **4.2 Settlement Through Mandatory Mediation**

As compared to other parts of the world, most settlement of cases through mandatory mediation has been termed as free and fair especially regarding

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<sup>21</sup>Navin Merchant “Training of ADR Skills Is A Must” , in Alternate Dispute Resolution, ed. Qaisar Mufti (Karachi: ICMP Press,2005), 26-34.

infiltration by vices such as bribery. Over the years, the judicial offices have declined the confidence of people under the taint of bribery and partial adjudication. But the mediation process makes the people believe they are part of the process as both parties have a role in selection and appointment of mediator. Also, the whole setup of hearing the parties reduces and decreases the potential biased decisions and malpractices. This poses greater trust and confidence in this system above the conventional court systems.<sup>22</sup>

Mediation on a voluntary basis has been introduced in Pakistan since a long time ago and is mentioned in ADR Act, 2017 as well. But now efforts should be made to make mediation mandatory for parties before knocking the door of court for resolving their dispute as instituted in Turkiye and other parts of the world.

In *Messrs. Alstom Power Generation through Ashfaq Ahmad v. Pakistan Water and Power Development Authority through chairman and another* it is held that dispute resolution via mediation and other alternate modes is a globally accepted manner of dispute resolution. There seems no hindrance to accept this as a means of dispute resolution. Further, it is empirically an inexpensive, low cost, expedient, convenient, advantageous and successful parallel system for adjudication.<sup>23</sup>

In another case, *Dr. Mrs. Yasmin Abbas v. Rana Muhammad Hanif and Others*<sup>24</sup> the Court observed that there should be no impediment to accept mediation as a means of dispute resolution. Different modes of dispute settlement are being inculcated as a fast and speedy resolution mechanism. It is quite evident from the case law and active participation

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<sup>22</sup> PLD [2007] Lahore 581.

<sup>23</sup> *Ibid.*

<sup>24</sup> PLD [2005] Lahore 742.

of judicial authorities that ADR is the ultimate solution to the case backlog of Pakistan particularly in the civil justice system.

## **5. ADR Centre Accreditation & Mediation Accreditation Draft Rules**

ADR Centre Accreditation and Mediation Accreditation (Eligibility) Rules<sup>25</sup> have been drafted to be promulgated from 2023. The rules are being made under section 25 of the ADR Act 2017. The rules provide a framework to incorporate and institutionalize the mediation centres. Interestingly, the rules are to be interpreted in accordance with ADR Act 2017. The rules provide a detailed guideline for infrastructure of mediation centres. An ADR center applicant is required to be a body corporate. The ADR center must have enough space and to ensure the appropriate space the facility must have 02 rooms for private sessions, 01 room for common session and the managerial and administrative rooms should be separate designated areas as per the rules made by the federal government.

Any applicant for accreditation of a mediation center or applicant mediator must apply through the prescribed form provided in the rules. The accreditation also depends on the site inspection report carried out by the concerned officers designated by the accreditation committee. It should be noted that no eligibility criteria have been provided for a person to be mediator. Whereas different countries provide a set criterion to be implemented. In Europe, the standard was issued under the title of 2008 Mediation directive. Moreover, it is one of the significant areas in the

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<sup>25</sup>The ADR Mediation Accreditation (Eligibility) Draft Rules, 2023, Available at <https://molaw.gov.pk/SiteImage/Misc/files/ADR%20Mediation%20Accreditation%20Rules%2C%202023.pdf>, Accessed March, 2021.

complete ADR mechanism<sup>26</sup> to be governed and regulated.

Mediation qualifications in the USA can vary depending on the state and jurisdiction. However, there are certain qualifications<sup>27</sup> that are generally required to become a certified mediator. Individuals seeking to become a mediator typically need to complete a certain amount of mediator training from an accredited program. This training may cover topics such as conflict resolution, communication skills, negotiation techniques, and ethics in mediation. Many programs also require participants to complete a certain number of supervised mediation sessions. Many states require mediators to meet certain eligibility criteria related to their moral character. This may involve a background check or screening process to ensure that the mediator has not engaged in any unethical or illegal behavior that could compromise their ability to effectively mediate disputes. The qualifications for becoming a mediator in the USA can be rigorous, but they are designed to ensure that mediators are equipped with the necessary skills and knowledge to effectively help parties resolve disputes in a fair and impartial manner. For instance, Florida court provides a comprehensive guide<sup>28</sup> prepared by the Florida dispute resolution center. This guide addresses issues like qualification of mediator, mediator certification, a list of certified mediation training programs, good moral character screening procedures, eligible activities, and code of conduct.

On the other hand, if we analyze, the rules implemented in Pakistan need to be extended and revised in order to meet the international standards

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<sup>26</sup>Feasley, Ashley. "Regulating Mediator Qualifications in the 2008 EU Mediation Directive: The need for a Supranational Standard." *J. Disp. Resol.* (2011): 333.

<sup>27</sup>Devine, Paul F. "Mediator Qualifications: Are Ethical Standards Enough to Protect the Client?" *Louis U. Pub. L. Rev.* 12 (1993): 187.

<sup>28</sup>Guidelines for becoming a Mediator, <https://www.flcourts.gov/content/download/215958/file/how-to-become-a-mediator-guide.pdf>, Last accessed March, 2021.

and qualifications for ADR mechanism. It would be high time to update the rules in light of international experience as Pakistan is working to establish and expedite the ADR mechanism.

## **6. Mediation Centres in Pakistan**

Mediation centres aim to help resolve civil, family, juvenile, and other such matters in less tense settings. Statistically, court mediation programs have shown success in saving the time and money of parties involved in the dispute. The primary focus during the dispensation of justice is diverted toward winning the trust of the parties with the court's services while providing them with options that would reduce the chances of future disputes. Research conducted to gauge the effectiveness of quick mediation methods reveals that litigants are relatively more satisfied with the mediation centres, even going to be extended to advocating the establishment of more facilities for out-of-court settlements for the purpose of expediting the cause of justice. Research shows that litigants prefer to first approach these centres rather than going through the rigors of trial because they are time and energy consuming. The more efficient way would be to provide direct access to parties to approach these centres rather than the intervention of the judicial courts. There is an urgent need of training on mediation and motivation of the lawyers so that they can use and promote the alternative system in the best possible way.<sup>29</sup>

Internationally, the mediation centres have been positively received by people such as Turkey and Italy. In Pakistan too, once mediation becomes mandatory the need to promote said mediation centres should be taken seriously because the benefits of this system can easily trickle down

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<sup>29</sup>Syed Muhammad, Haider. "ADR through Centuries: Modern Law Can Gain Much from Traditional Mechanism", *Journal of Research and Reviews in Social Sciences Pakistani Coden: IRRSSP* 38: (2020).

to the most vulnerable people of the society. Moreover, this mechanism is also proving helpful for resolving commercial/business disputes as well.

Some jurisdictions like Turkey and Italy have experimented by making mediation mandatory in certain fields of litigation and it has brought very good results.<sup>30</sup> On 22 June 2013, mediation was adopted on a voluntary basis in Turkey, with 6325 cases to be addressed via mediation in civil regulation disputes.<sup>31</sup> This laid down the way for a mediation system by which parties were free to resort to a mediator as long as they had a civil law dispute, the final results of which might be determined via party agreement. It is to be noted that from June 2013 till November 2017, a total 21, 517 cases were being resolved via mediation and the wide 19,292 of which ended with an agreement<sup>32</sup> thus setting the formal system free of this huge case backlog. However, 90% of voluntary mediations cases were from labor disputes<sup>33</sup> which were resolved in an expedient manner.

The main motive behind the mediation derive was cost effective, speedy, and efficient settlement of disputes. It is evident the labor disputes need it the most, as, due to economic and financial restraints the litigants cannot afford to prolong the matters. The mediation or ADR introduction occurred on 1 January 2018, whereas until 15 February 2018, only the labor disputes reached 37000, 6500 of which have been already effectively resolved even as 2800 of which have not.<sup>34</sup> This shows that in less than two

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<sup>30</sup>Mian Mudassar, Umar Bodla, "Alternative Dispute Resolution in Pakistan", *Journal of Research and Reviews in Social Sciences Pakistani Coden: IRRSSP* (2020).

<sup>31</sup>Idil, Elveris, "Mandatory Mediation is the New Game in Town", (2018). Retrieved from: <http://mediationblog.kluwerarbitration.com/2018/03/03/turkey-mandatory-mediation-new-game-town/>, accessed June 2021.

<sup>32</sup> Ibid.

<sup>33</sup>Tankut, Centel, "Labour Dispute Resolution in Turkey", *Springer International Publishing* (2019).

<sup>34</sup>Idil, Elveris, "Mandatory Mediation Is the New Game In Town", (2018), <http://mediationblog.kluwerarbitration.com/2018/03/03/turkey-mandatory-mediation-new-game-town/>, accessed June, 2021.

months, the total agreement numbers in mandatory mediation extended to almost one-quarter of the total agreements reached under voluntary mediation over a period of four years.<sup>35</sup>

While all these developments may be considered a positive sign, mandatory mediation was adopted without the benefit of a pilot project. Subsequently a debate and discourse were generated whether mandatory mediation can be introduced or should be refrained from as the mediators, educators, judicial officers weighed in diverse opinions.<sup>36</sup> The purpose was to study, monitor and rationalize the implications of mandatory mediation practice by making the numbers available. This made it possible to observe and diagnose the problems at a very early stage. The unethical practices could be recognized and curtailed via making the mediation details public. It was vital at this stage to use the big data so the government can extend and replicate the same mandatory mediation from labor dispute settlement to other areas of litigation such as commercial and consumer disputes. This can be a great lesson for Pakistan to inculcate the ADR and mandatory mediation in particular to enhance the disposal of justice and expedite the backlog cases to be resolved.

## 7. Conclusion

The lawyers practicing inside the courts will be the main foundation blocks of strength in spreading ADR in particular mandatory mediation. Lawyers have to be persuaded with the aid of the chance of receiving a lump sum amount for being attorneys in mediation which gives an opportunity to resolve the disputes hastily and successfully. Trials typically take years and,

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<sup>35</sup>Tankut, Centel. "Mediation in Labour Rights Disputes: In Labour Dispute Resolution in Turkey", *Springer, Cham* (2019): 135-154.

<sup>36</sup>Serpil, ISIK, "Mediation as an Alternative Dispute Resolution Method and Mediation Process in Turkish Law System: An Overview", *In Annales de la Faculté de Droit d'Istanbul* 48: 65 (2016): 55-87.



in our country, expenses are generally paid part by part throughout the trials till the end. Similarly, they ought to be made to keep in mind that successful mediators from legal professionals will usually attract new customers trying to strive for mediation who might in any other case have refrained from the court.<sup>37</sup> A National Action Plan deems necessary for the promotion and institution of mandatory mediation.

After careful evaluation of the abovementioned relevant laws both general and specific that include provisions for ADR mechanisms in Pakistan, it can be observed that there is no specific legal framework governing community mediation, the training and qualifications of mediators, and the community mediation centres in Islamabad. Regardless of the advent of courtroom-annexed mediation under the act, there are no explicit rules which govern the conduct of mediation, the education and qualifications of mediators, and the mediation centres standards. The recently drafted and to be promulgated rules provide guidelines for establishment and accreditation of ADR centres but are silent on the education and qualification of mediators. By introduction of mandatory mediation in labor courts and generally commercial matters a lot of weight can be put off from the formal courts. The backlog cases can be resolved in an efficient and expedient manner via mandatory mediation. The international experience must be utilized in Pakistan to achieve the same results. Although mandatory mediation seems a curtailment of liberty of parties, but it does not necessitate the award thus it must be introduced in ADR Act, 2017 for the jurisdiction of Islamabad as a pilot project.

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<sup>37</sup>Kalanauri Zafar Iqbal, "Implementation Strategy for ADR in Pakistan", <http://pgil.pk/wp-content/uploads/2017/08/Implementation-strategy-for-ADR-in-Pakistan.pdf>, accessed June 2021.