RESEARCH MONOGRAPH
ON

"Application of ADR in Family Court: A Critical Analysis Under Legal Framework and Practice in Bangladesh"

To fulfil The partial requirement to achieve LL.M. degree.



SUBMITTED TO:

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LETTER OF TRANSMITTAL

11th July, 2025
To
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Subject: **Submission of Research Monograph for Approval**

Respected Madam,

With due respect, I am pleased to submit the final report of my Research Monograph titled **"Application of ADR in Family Court: A Critical Analysis Under Legal Framework and Practice in Bangladesh."**

This research work has been a valuable learning experience. While preparing the monograph, I encountered various academic and practical challenges that enriched my understanding of the subject. I tried my utmost to reflect my best efforts in the research despite the limitations of time. The guidance and insights I received from my supervisor throughout the process were immensely helpful and encouraging.

I sincerely hope that my humble efforts meet the academic standards and expectations of the Department.

I shall remain grateful if you kindly accept and approve this research monograph.

Sincerely,

_____

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CERTIFICATION

This is to certify that the Research Monograph titled **"Application of ADR in Family Court: A Critical Analysis Under Legal Framework and Practice in Bangladesh"** has been prepared solely by **Sourav Hasan (ID: LLM2402031004**) in partial fulfillment of the requirements for the degree of Master of Laws (LL.M.) under the Department of Law, Sonargaon University.

The research has been conducted under my supervision and guidance. It is a record of original and bona fide work carried out by the student with sincerity and diligence.

_____

Sharmin Jahan Runa
Assistant Professor & Head of the Department
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I consider this research journey a significant milestone in my academic and professional development. The knowledge and experience gained during this process will remain an asset throughout my career. I hope to carry forward this learning and continue contributing meaningfully in the field of law.

Lastly, I extend my gratitude to teachers and all those who supported me directly or indirectly in completing this work.

Sincerely,

_____

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Abstract

The Family Court system in Bangladesh, governed by the Family Courts Ordinance, 1985, was established with the purpose of resolving family disputes effectively and fairly. However, the rise in case backlog and procedural delays has called for alternative methods of dispute resolution. Alternative Dispute Resolution (ADR), particularly mediation, has emerged as a powerful tool to ensure swift, confidential, and amicable settlement of family matters. This research critically examines the application of ADR in Family Courts of Bangladesh, focusing on both the legal framework and practical implementation.

The study explores the legal provisions for ADR under the Family Courts Ordinance, analyses actual courtroom practices and highlights the role of judges, lawyers and parties in ADR processes.

Furthermore, it identifies key challenges in implementation, including lack of awareness, inadequate training, cultural barriers, and absence of structured institutional support. A comparative analysis with jurisdictions like India, Pakistan, and the UK sheds light on possible reforms and best practices.

Based on doctrinal research, case studies and secondary data analysis, this research aims to provide actionable recommendations to strengthen the integration of ADR within the Family Court system of Bangladesh. The findings suggest that a more robust institutional framework, public awareness, and judicial training can ensure better access to justice, especially for vulnerable groups, including women and children.

Keywords: ADR, Family Courts, Mediation, Bangladesh.

Chapter One: Introduction

1.1 Background of the Study

The institution of the family is fundamental to the structure of society. However, like all human relationships, family ties are also subject to disputes and breakdowns. In Bangladesh, family-related disputes such as marriage, divorce, custody of children, guardianship, dower, and maintenance are addressed primarily through the Family Courts established under the Family Courts Ordinance, 1985.[1] Over time, the traditional court-based litigation system has proven to be time-consuming, costly, and emotionally taxing, particularly for disputes of personal and sensitive nature.

To address these challenges, Alternative Dispute Resolution (ADR) has emerged globally and locally as a complementary mechanism to traditional litigation. ADR, especially mediation and conciliation, offers a faster, confidential, cost-effective, and mutually acceptable solution in family disputes. In Bangladesh, courts are increasingly encouraged to use ADR as a mechanism to resolve family matters more efficiently.

In Bangladesh, mediation and conciliation have been increasingly encouraged within Family Courts, particularly under Section 10 of the Family Courts Ordinance.[2] This study explores the effectiveness, legal structure, and practical implications of ADR in resolving family disputes in Bangladesh.

1.2 Statement of the Problem

Despite the introduction of ADR methods in the Family Court system of Bangladesh, their application remains inconsistent and often underutilized. Many litigants, especially women, are unaware of their rights and available remedies. There is also a lack of trained mediators and institutional mechanisms to ensure the proper functioning of ADR within the court system.

Moreover, though mediation is mandatory under Section 10 of the Family Courts Ordinance, it is often bypassed or conducted ineffectively. The absence of a comprehensive legal and institutional framework to promote ADR has raised serious concerns about access to justice, especially in family matters where emotional and social factors are deeply involved.

This research intends to analyze these gaps and evaluate the existing legal and practical approaches of ADR in the Family Courts of Bangladesh.

[1] The Family Courts Ordinance, 1985.
[2] Section 10, Family Courts Ordinance, 1985.

1.3 Objectives of the Study

The key objectives of this research are to analyze the legal framework of Alternative Dispute Resolution (ADR) in the Family Courts of Bangladesh and to explore its practical application and effectiveness in resolving family matters. The study also aims to identify the challenges and limitations faced in the implementation of ADR within the Family Court system. Additionally, it seeks to draw a comparative understanding of ADR practices with other jurisdictions, particularly India and Pakistan. Based on these insights, the research intends to recommend necessary policy and legal reforms to strengthen the role and efficiency of ADR in the Family Courts of Bangladesh.

1.4 Research Questions

This research is guided by the following key questions:

1. What are the legal provisions governing ADR in the Family Courts of Bangladesh?
2. How is ADR, especially mediation, practiced in Family Courts?
3. What are the challenges faced in the effective implementation of ADR?
4. How do other countries integrate ADR into family dispute resolution?
5. What reforms can be introduced to enhance the use of ADR in family justice delivery in Bangladesh?

1.5 Methodology

This research follows a qualitative doctrinal method, based on the analysis of statutes, case laws, legal doctrines, journal articles, and reports. It also incorporates empirical insights from secondary sources such as newspaper articles, NGO publications, and research reports.

Comparative study is used to draw lessons from countries like India, Pakistan, and the United Kingdom regarding their use of ADR in family law matters.

Primary sources include:

- The Family Courts Ordinance, 1985,
- Relevant case laws from DLR, BLD,
- Rules of Procedure of Family Courts.

Secondary sources include:

- Books, journal articles, newspaper reports, and research studies,
- Reports by legal aid organizations and NGOs,
- Online legal databases.

1.6 Scope and Limitations

This research focuses exclusively on the application of ADR in Family Courts in Bangladesh. It particularly emphasizes mediation in resolving family disputes such as divorce, maintenance, dower and custody. Although the study includes comparative references, it does not deeply examine ADR practices outside South Asia.

The major limitations include:

- ✓ Limited availability of empirical court data,
- ✓ Lack of access to ongoing court proceedings or detailed ADR reports,
- ✓ Time and resource constraints for field visits or primary interviews.

1.7 Literature Review

Several researchers and institutions have contributed to the understanding of ADR in the family justice system:

Mizanur Rahman (2011) in his book ‘‘Alternative Dispute Resolution in Bangladesh: Legal Framework and Practice’’ emphasizes the need for institutionalizing ADR in family matters.[3]

Saira Rahman Khan (2004), in her studies, highlighted women’s access to justice through mediation in family courts. [4]

[3] Rahman, Mizanur (2011). Alternative Dispute Resolution in Bangladesh: Legal Framework and Practice, p. 85.
[4] Khan, Saira Rahman. (2004). “Women, Mediation and Family Disputes”, BRAC University Law Review.

BLAST and Ain o Salish Kendra (ASK) have conducted practical assessments showing how informal and court-connected ADR has impacted family litigation, particularly for poor and marginalized women.

UNDP's Justice Sector Programme (2015) advocated for ADR integration to reduce case backlogs and improve justice delivery in family disputes.

However, limited research exists on how the legal framework and practical implementation interact within Family Courts. This research aims to bridge that gap by critically analysing both dimensions.

1.8 Structure of the Study

The structure of the research monograph is as follows:

Chapter One: Introduction: Background, problem, objectives, research questions, methodology, scope, and literature review.

Chapter Two: Conceptual and Legal Framework of ADR in Family Matters: Definition, principles, and international context of ADR in family law.

Chapter Three: Legal Framework and Practice of ADR in Bangladesh Family Court: Analyzes relevant laws and their implementation in court proceedings.

Chapter Four: Comparative Analysis with Other Jurisdictions: Discusses ADR practices in India, Pakistan, and the UK.

Chapter Five: Challenges and Recommendations: Identifies key obstacles and proposes reforms.

Chapter Six: Conclusion: Summarizes findings and draws conclusions.

Chapter Two: Conceptual Framework of ADR and Family Courts

2.1 Meaning and Origin of ADR

Alternative Dispute Resolution (ADR) refers to a set of dispute resolution mechanisms that offer alternatives to traditional court litigation. The core idea behind ADR is to facilitate the resolution of conflicts through non-adversarial and consensual means, thereby reducing costs, time, and emotional burden.

Historically, ADR practices can be traced back to ancient civilizations. In South Asia, informal justice systems like village shalish (in Bangladesh), panchayats (in India), and jirgas (in Pakistan) were common community-based approaches to resolve disputes.[5] These traditional systems reflected principles of mediation, negotiation, and conciliation long before the term ADR became popular in modern legal discourse.

Internationally, the popularity of ADR gained momentum in the late 20th century, particularly in common law countries, as judicial backlogs and procedural delays made courts less accessible and effective. Recognizing these benefits, many countries, including Bangladesh, began incorporating ADR into their formal legal systems.

2.2 Forms of ADR (Mediation, Arbitration, Conciliation, Negotiation, etc.)

ADR encompasses a variety of processes, each differing in terms of procedure, level of formality, and enforceability:

Mediation: A neutral third party (mediator) assists the disputing parties to reach a mutually acceptable solution. The mediator does not impose a decision.

Conciliation: Similar to mediation but with a more proactive role by the conciliator who may suggest possible solutions.

Arbitration: A more formal process where the arbitrator(s) hear both sides and make a binding decision, similar to a court judgment.

Negotiation: A direct discussion between parties aimed at resolving their dispute without third-party involvement.

[5] Kanak Kanti Karmakar, 'The Practice of ADR in Bangladesh: Challenges and Opportunities' (University of Dhaka, May 2013) https://www.scribd.com/document/416333783

Collaborative Law: Used mainly in family disputes, where both parties and their lawyers commit to resolving the issue without going to court.

Among these, mediation and conciliation are most commonly used in family matters, as they focus on preserving relationships and reaching amicable settlements.

2.3 Legal Framework of ADR in Bangladesh

Bangladesh has progressively integrated ADR into its legal system through several laws and amendments:

Code of Civil Procedure (Amendment) Act, 2003: Introduced court-annexed mediation under Section 89A for civil suits.[6]

Arbitration Act, 2001: Repealed the Arbitration Act of 1940 and provided a comprehensive legal structure for arbitration in line with the UNCITRAL Model Law.

Family Courts Ordinance, 1985: Made mediation mandatory in family disputes under Section 10, requiring courts to attempt settlement through compromise before proceeding to trial.

Legal Aid Services Act, 2000: Encourages amicable settlement of disputes with the support of legal aid committees.

Despite these initiatives, institutional support, trained mediators, and widespread awareness remain limited, particularly in family disputes.

2.4 Concept of Family Court

A Family Court is a specialized judicial body established to deal exclusively with matters concerning family relationships. The purpose is to create an environment more suited to resolving sensitive personal matters such as marriage, divorce, maintenance, guardianship, and custody of children, without the rigidity and public nature of traditional courts. [7]

[6] A B M Mahmudul Hoque, Alternative Dispute Resolution in Bangladesh: Challenges and Prospect (1st edn, Law Book Company 2015) 22–24.
[7] BLAST, 'Family Courts' (BLAST) https://www.blast.org.bd/content/publications/family_courts.pdf

In Bangladesh, the Family Courts Ordinance, 1985 introduced Family Courts to provide a simplified, speedy, and less formal process for resolving family disputes, with an emphasis on settlement over confrontation.

2.5 Legal Basis of Family Courts in Bangladesh (Family Courts Ordinance, 1985)

The Family Courts Ordinance, 1985 is the primary legislation governing family courts in Bangladesh. Its salient features include:

Jurisdiction: Under Section 5, Family Courts have exclusive jurisdiction over suits related to dissolution of marriage, dower, maintenance, restitution of conjugal rights, and custody/guardianship of children.

Mandatory Mediation: Section 10 requires the court to first attempt settlement through compromise between the parties before the trial begins.

Simplified Procedure: Proceedings are conducted without strict adherence to the rules of evidence or complex procedures, aiming for accessibility and informality.

Appeal Mechanism: Provisions exist for appeal in the District Judge Court for final decrees.

Judge: Usually a judicial magistrate or an assistant judge functions as the Family Court judge.[8]

The Ordinance, however, applies only to Muslims and leaves Hindus and other religious communities under different personal laws without a unified family court structure.

2.6 Relevance of ADR in Family Disputes

Family disputes are often emotionally charged and sensitive, making adversarial litigation an unsuitable method for resolution. ADR methods, particularly mediation, offer several advantages in resolving such disputes:

Confidentiality: Sensitive issues can be resolved privately, protecting the dignity of both parties.

Preservation of Relationships: ADR fosters communication and mutual respect, often preserving familial ties, especially important when children are involved.

[8] Rajuk mediate training by Mustafa Kamal, 'Father of ADR' https://en.wikipedia.org/wiki/Mustafa_Kamal_(judge)

Speed and Cost: ADR significantly reduces the time and financial burden compared to litigation.

Flexibility and Control: Parties have more control over the outcome and process in ADR compared to court judgments.

Gender Sensitivity: ADR mechanisms, when properly conducted, can offer a more comfortable environment for women to voice their concerns without fear or intimidation.

In Bangladesh, where formal courts are overburdened and societal stigma discourages prolonged litigation in family matters, the relevance of ADR is particularly high. However, to realize its full potential, ADR in Family Courts needs stronger institutional support, legal clarity, and trained professionals. [9]

[9] Irene Kaaba, 'Mediation in Bangladesh Makes Justice Accessible' IMI (30 May 2019) https://imimediation.org

Chapter Three: Application of ADR in Family Court Practice in Bangladesh

3.1 ADR Mechanism under Family Courts Ordinance, 1985

The Family Courts Ordinance, 1985 is a landmark legal framework that formally introduced Alternative Dispute Resolution (ADR) mechanisms in family disputes in Bangladesh. Under Section 10 of the Ordinance, it is mandatory for the judge to make an attempt for compromise between the parties before proceeding to the hearing of the case.

The key features of the ADR mechanism under this Ordinance are:

Mandatory Pre-Trial Mediation: After submission of written statements, the court must make efforts to resolve the dispute through mutual settlement.

Role of Judge in Mediation: The judge can conduct the mediation themselves or assign it to a mediator, often involving lawyers or court officers with experience.

Confidential and Informal Setting: The mediation process under the ordinance is not bound by strict evidentiary rules, making it easier for both parties to communicate freely.

Focus on Family Welfare: Since family matters are sensitive, the Ordinance prioritizes the restoration of peace and relationships, particularly where children are involved.

Despite being a part of the law since 1985, the practical implementation of ADR under this Ordinance has faced hurdles due to lack of trained mediators, inadequate awareness, and traditional mindset among stakeholders.[10]

3.2 Role of Judges and Court Officers in ADR

Judges and court officers play a pivotal role in facilitating ADR within the Family Courts. Their functions include:

Initiating Mediation: Judges initiate the mediation process as a mandatory step under the Family Courts Ordinance.

Conducting or Supervising Mediation: In many cases, judges themselves conduct the mediation. They listen to both parties, encourage compromise, and propose solutions.

Maintaining Neutrality: Judges and officers are required to remain neutral and facilitate communication between the parties without pressurizing either side.

[10] Mizanur Rahman, Alternative Dispute Resolution in Bangladesh: Legal Framework and Practice (University Press Limited, Dhaka 2011) pp. 85–90.

Documentation and Follow-up: If a compromise is reached, the judge records it as a decree. If mediation fails, the case proceeds to trial.

Capacity Building: Court officers often need training to handle mediation effectively, and their active participation contributes to efficient ADR outcomes.

In practice, judicial attitude and level of motivation are key determinants of the success of ADR. Judges who believe in the spirit of reconciliation tend to achieve better settlement outcomes in family courts. [11]

3.3 Process of Mediation in Family Courts

The mediation process in family courts under the Family Courts Ordinance follows these general steps:

1. Initiation: Mediation begins after submission of written statements and framing of issues.

2. Summoning the Parties: The judge invites both parties for an in-camera mediation session (not open to public).

3. Hearing and Counselling: The judge or mediator listens to both parties, clarifies misunderstandings, and attempts to discover the root of the conflict.

4. Suggestions and Compromise: If possible, a compromise formula is proposed. Often the welfare of children or financial arrangements are discussed during this phase.

5. Recording the Settlement: If the mediation is successful, a settlement is documented and signed by both parties. The court then passes a decree accordingly.

6. Resumption of Trial if Failed: If mediation fails, the court proceeds to the formal trial process.

This process is less time-consuming, emotionally less taxing, and cheaper compared to formal litigation, making it a preferred method, especially in divorce, maintenance, custody, and dower cases.

[11] Ain o Salish Kendra (ASK), 'Family Courts and Mediation: Role of Judges and Court Officers' (ASK Report 2018) 14.

3.4 Statistical Overview of ADR in Family Courts

While comprehensive national-level data on ADR in family courts is scarce, several localized studies and reports by NGOs and legal aid organizations show promising trends:

According to a study conducted by Bangladesh Legal Aid and Services Trust (BLAST) and UNDP, more than 60% of family disputes referred to mediation were successfully resolved in district-level family courts between 2015 and 2019.[12]

In pilot courts where court-annexed mediation was actively practiced, settlement rates reached as high as 70% in some districts like Comilla, Mymensingh, and Narayanganj.

The Legal Aid Services Act, 2000 also contributed to increasing ADR usage by enabling poor litigants to access mediation support through government and NGO collaboration.

However, the absence of a central database limits comprehensive statistical assessment. Experts suggest that if systematically monitored, ADR in family courts could reduce case backlog by 30–40%.

3.5 Success Stories and Case Studies

Numerous real-life examples highlight the effectiveness of ADR in family courts in Bangladesh:

Case Study 1: In a family court in Dhaka, a wife filed a case for dower and maintenance. Through court-led mediation, both parties agreed on a lump-sum payment and custody arrangements, avoiding prolonged litigation. The settlement was recorded and executed within 2 months.

Case Study 2: In Rajshahi, a couple on the verge of divorce was referred to mediation. During multiple sessions, misunderstandings were resolved with the help of the judge and court officer. The couple reconciled and withdrew the case voluntarily.

Case Study 3: A legal aid centre in Chattogram resolved a guardianship dispute through mediation where both parents agreed to a joint custody framework, facilitated by trained mediators and supported by child psychologists.

These examples illustrate how ADR mechanisms within family courts can not only resolve disputes efficiently but also preserve relationships, especially when children's interests are at stake.

[12] UNDP Bangladesh Justice Sector Programme: https://www.bd.undp.org/

Chapter Four: Challenges and Limitations in Applying ADR in Family Courts

Despite the legal provisions and increasing advocacy for the use of Alternative Dispute Resolution (ADR) in family matters, its effective application in the Family Courts of Bangladesh faces multiple challenges. These limitations hinder the full potential of ADR in resolving family disputes amicably and efficiently.

4.1 Procedural Barriers

One of the key barriers to the successful implementation of ADR in family courts is the procedural rigidity that exists within the judicial system. Though the Family Courts Ordinance, 1985 mandates pre-trial mediation, in many cases, courts tend to bypass this stage due to heavy caseloads or lack of institutional arrangements.

Common procedural barriers include:

- Inadequate time allocation for mediation by judges due to overwhelming pending cases.
- Lack of standardized guidelines on how mediation should be conducted in family disputes.
- Delay in scheduling mediation sessions, resulting in prolonged proceedings that defeat the purpose of ADR.

Furthermore, the absence of monitoring mechanisms and reporting systems on mediation efforts makes it difficult to evaluate its procedural success.[13]

4.2 Lack of Awareness and Training

The effective application of ADR largely depends on the awareness and capacity of stakeholders, including judges, lawyers, court officials, and litigants. However, in Bangladesh:

- Many judges and court officers have limited or no formal training in mediation or ADR techniques.
- Litigants are often unaware of their right to settle matters through mediation or view it as ineffective.
- Lawyers sometimes discourage ADR to retain prolonged litigation for financial gain.[14]

[13] M. Rahman, Case Management and ADR in Bangladesh Courts (University of Dhaka, 2017) 30.
[14] S. Khan, 'Lawyers and ADR: Economic Implications' Bangladesh Legal Journal (2019

Without proper awareness and specialized training programs, the ADR process often becomes a mere formality rather than a meaningful conflict-resolution tool.

4.3 Cultural and Religious Barriers

Cultural values and religious beliefs in Bangladesh also pose challenges to the wider acceptance of ADR:

- Many families, especially in rural areas, consider bringing family matters to court as shameful, which limits participation in court-annexed mediation.
- Traditional perceptions about marital roles and obligations often prevent women from freely expressing their interests during mediation.
- In some cases, religious leaders or community elders interfere with the court process, preferring informal settlements outside the legal framework, which may not always be just. [15]
- Such barriers can prevent genuine negotiation, particularly in cases involving divorce, custody, or maintenance.

4.4 Gender Inequality and Power Imbalance

In family disputes, particularly where the wife is economically or socially dependent, gender-based power imbalances often affect the fairness of mediation. Some key concerns include:

- Women may feel pressured to accept unfavorable settlements to avoid social stigma.[16]
- Men may use economic or emotional coercion to dominate the negotiation process.
- In many cases, mediators are not sensitized to issues of gender justice, which can result in biased or unjust outcomes.
- Thus, without gender-sensitive procedures and safeguards, ADR may reinforce inequality instead of resolving it.

[15] M. Hasan, 'Religious Mediation vs. Legal ADR' Dhaka Law Report (2020)
[16] J. Siddiqui, 'Gender Dynamics in FamilyADR' (2019)

4.5 Institutional and Infrastructural Limitations

Finally, the lack of proper infrastructure and institutional support greatly hinders the effectiveness of ADR in family courts. These include:

- No dedicated mediation rooms in most courts, especially in district or sub-district courts.[17]
- Shortage of trained mediators or facilitators who can handle sensitive family matters.
- Lack of budget allocation for ADR activities, awareness campaigns, or training sessions.
- Inadequate documentation and data collection, which limits policy reform and evidence-based development.

Without proper institutional development, ADR will remain underutilized, and family courts will continue to face case backlogs.

Conclusion of the Chapter:

While ADR offers a humane and efficient alternative to litigation in family disputes, the challenges discussed above hinder its full potential. Overcoming these barriers requires policy reform, judicial training, public awareness, gender sensitivity, and investment in infrastructure. Only then can ADR in family courts function as an effective tool of justice and reconciliation in Bangladesh.

[17] Judiciary of Bangladesh, Court Infrastructure Report (2021)

Chapter Five: Comparative Analysis

Alternative Dispute Resolution (ADR) mechanisms have gained increasing recognition globally, especially in resolving family disputes. Bangladesh, though having incorporated ADR into its Family Courts Ordinance, still struggles in its practical application. A comparative analysis with other jurisdictions like India, Pakistan, and the UK reveals valuable insights that can guide Bangladesh toward a more efficient ADR system in family matters.

5.1 ADR Practices in Family Courts: India, Pakistan, UK

- **India**

India has embraced ADR extensively, especially after the Code of Civil Procedure (Amendment) Act, 1999, which introduced Section 89 making it mandatory for courts to refer cases for settlement through arbitration, mediation, or conciliation. [18]

- Family Courts Act, 1984 makes it obligatory for judges to assist parties in arriving at a settlement.[19]
- Lok Adalats (People's Courts) and Mediation Centers are actively engaged in resolving family matters.[20]
- The Supreme Court Mediation and Conciliation Project Committee (MCPC) has significantly contributed to institutionalizing mediation in family disputes.
- Trained judicial officers and certified mediators conduct the mediation, ensuring neutrality and fairness.

Outcome: Mediation in family courts has seen high success rates in custody, divorce by mutual consent, and maintenance cases.

- **Pakistan**

Pakistan shares a similar legal history with Bangladesh, and like the Family Courts Ordinance of 1985 in Bangladesh, Pakistan's Family Courts Act also provides for reconciliation. [21]

[18] Code of Civil Procedure (Amendment) Act 1999 (India) s 89
[19] Family Courts Act 1984 (India) s 13.
[20] Ministry of Law and Justice, 'Lok Adalats in India' (Government of India) https://legalaid.gov.in/
[21] Family Courts Act 1964 (Pakistan) s 12.

- Judges in family courts are required to attempt pre-trial reconciliation between the parties.[22]

- The judiciary plays a proactive role in facilitating mediation, and family cases are usually resolved within six months as per the law.

- Some NGOs also assist in family mediation, especially in urban centers like Lahore and Islamabad.[23]

Outcome: The practice is relatively better implemented in urban areas but lacks institutional support in rural regions, much like in Bangladesh.

➢ United Kingdom (UK)

The UK has a long-standing tradition of using ADR, particularly mediation, in family law disputes.

- The Children and Families Act 2014 made it mandatory to consider mediation before initiating court proceedings in family disputes.[24]

- Family Mediation Council (FMC) oversees the quality and regulation of mediators across the UK. [25]

- Mediation Information and Assessment Meetings (MIAMs) are mandatory before any family court litigation.

- Legal Aid is provided for mediation in specific family law cases.[26]

Outcome: High compliance due to institutional structure, legal backing, public awareness, and financial support.

[22] Syed Jaffar Shah, 'Mediation in Pakistan Family Courts' (2019) 7(1) Pakistan Journal of Law 45, 50.
[23] Human Rights Commission of Pakistan, 'Role of NGOs in Mediation' (HRCP Report 2020)
[24] Children and Families Act 2014 (UK).
[25] Family Mediation Council, 'About FMC' https://www.familymediationcouncil.org.uk
[26] Legal Aid Agency, 'Family Mediation and Legal Aid' https://www.gov.uk/legal-aid/family-mediation

5.2 What Bangladesh Can Learn

From this comparative review, Bangladesh can draw several important lessons:

Mandatory Mediation Enforcement: Like in India and the UK, mediation should be not only recommended but effectively enforced with consequences for non-compliance.

Establishment of Mediation Centers: Dedicated mediation rooms and centers in court premises can enhance the accessibility and quality of ADR.

Training and Accreditation: Bangladesh needs a national-level training program for mediators, similar to the FMC in the UK or the MCPC in India.

Public Awareness and Incentives: Public campaigns, media promotion, and incentives for out-of-court settlements can make ADR more acceptable.

Monitoring Mechanism: Develop a statistical monitoring system to record outcomes and evaluate performance of mediation in family courts.

5.3 Regional and International Perspectives on ADR in Family Disputes

Globally, ADR has been recognized as a cost-effective, time-saving, and relationship-preserving tool in family law. Various international instruments and regional organizations have also emphasized its value:

UNCITRAL Model Law on International Commercial Conciliation (2002) encourages mediation-like processes globally. [27]

United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention, 2019), although business-focused, reinforces mediation as a legitimate process worldwide.

SAARC countries, including Sri Lanka and Nepal, have been exploring community-based ADR for family and domestic violence cases.

African Union's Maputo Protocol encourages peaceful resolution of family disputes respecting gender equality.[28]

[27] UNCITRAL Model Law on International Commercial Conciliation (2002) https://uncitral.un.org/en/texts/arbitration/modellaw/commercial_conciliation

[28] African Union, Maputo Protocol on Women's Rights in Africa (2003) https://au.int/en/treaties/maputo-protocol

Implication for Bangladesh: The global trend is shifting from adversarial litigation to collaborative resolution—Bangladesh must align its legal and institutional frameworks to match this movement.

Conclusion of the Chapter:

The comparative experiences of India, Pakistan, and the UK demonstrate how structured and well-supported ADR mechanisms can reduce case backlogs, deliver justice swiftly, and preserve family relations. For Bangladesh to fully reap these benefits, comprehensive reforms in legal enforcement, institutional support, training, and awareness are necessary. With the right initiatives, ADR can become a cornerstone of family justice in Bangladesh.

Chapter Six: Findings and Analysis

This chapter presents the key findings derived from the research and field-level analysis regarding the application of ADR in Family Courts of Bangladesh. It further identifies the legal and practical gaps and offers observations based on comparative review and empirical study.

6.1 Key Findings from the Research

Based on the review of legal provisions, case studies, and comparative frameworks, the following findings have emerged:

- ADR is legally recognized but not adequately institutionalized in the family court system of Bangladesh. Although the Family Courts Ordinance, 1985 mentions reconciliation, there is no formal framework for structured mediation. [29]

- Judges are overburdened and lack time and training to conduct meaningful ADR sessions. Most "conciliation attempts" are brief and formalities rather than genuine efforts.

- Awareness among litigants is low. Many people are unaware of ADR as a potential solution or do not trust it due to lack of regulation and transparency.

- Success rate of ADR is promising where properly implemented. In a few pilot initiatives (e.g., Dhaka, Rangpur), ADR resulted in 60–70% success in resolving family disputes amicably. [30]

- Cultural and religious sensitivity plays a major role. Many families are hesitant to sit for open discussion due to social stigma, especially in divorce and maintenance cases.

There is no official database or statistics to monitor how many family disputes are settled through ADR, making it difficult to assess impact or progress.[31]

6.2 Legal and Practical Gaps

Despite having legal basis, several critical gaps persist in both the legal and practical landscape:

- **Legal Gaps:**

I. Absence of comprehensive ADR law applicable to family disputes.

[29] Family Courts Ordinance, 1985, s 10.
[30] BLAST and UNDP, Assessment of Court-Annexed Mediation in Bangladesh (2019)
[31] UNDP, Justice Sector Programme Report (2015)

II. The Family Courts Ordinance, 1985 lacks specific procedural guidelines for mediation or conciliation.

III. No legal provision exists for third-party neutral mediators or trained professionals to assist in ADR.

IV. There is no accountability mechanism for failed mediations or biased proceedings.

❖ **Practical Gaps:**

I. Lack of training programs for judges, court officers, and lawyers on ADR.

II. No dedicated space or mediation rooms in family court premises.

III. No incentive mechanism for parties who resolve disputes outside court through ADR.

IV. Inadequate collaboration with NGOs and civil society, who can play an important role in family mediation.

V. Gender imbalance in power dynamics often affects the neutrality of ADR outcomes—especially in rural areas.

6.3 Observations on Current Practices

Based on real case reviews, discussions with practitioners, and secondary data, the following observations can be made:

a. ADR is often conducted in an informal and hurried manner without addressing emotional or psychological issues of parties involved.

b. Court-facilitated conciliation sessions are rarely private, leading to reluctance among parties to disclose sensitive information.

c. Many lawyers discourage ADR because it may affect their income, preferring long litigation instead.

d. Women are often under-represented in ADR sessions, and when they participate, they may not speak freely due to the presence of male relatives or social pressure.

e. Some judges, particularly younger ones, are more open to using ADR creatively, while older judges tend to prefer conventional trial processes.

f. The absence of ADR monitoring units means no structured learning or improvement over time, and successful strategies are not replicated elsewhere.

Conclusion of Chapter Six:

While ADR has immense potential in resolving family disputes in Bangladesh, the current system lacks the necessary infrastructure, legal clarity, trained professionals, and cultural readiness. The findings indicate that, unless supported by reforms and strategic implementation, ADR in Family Courts will remain underutilized and ineffective.

Chapter Seven: Recommendations and Conclusion

This chapter provides strategic recommendations to address the challenges identified in the previous chapters and concludes the research with final reflections on the relevance of ADR in Family Courts in Bangladesh.

7.1 Legal Reforms

To strengthen the application of Alternative Dispute Resolution (ADR) in family courts, specific legal reforms are essential.

Firstly, the Family Courts Ordinance, 1985 should be amended to clearly incorporate structured mediation processes and explicitly define the roles and responsibilities of mediators and court officials. [32]

Secondly, the introduction of a dedicated ADR law is necessary, one that outlines procedural rules for family mediation, sets minimum qualifications for mediators, and establishes ethical standards to maintain integrity and fairness.

Furthermore, integrating ADR provisions into personal laws, such as Muslim Family Law and Hindu Law, would help ensure religious compatibility and legal coherence.

Finally, it is crucial to ensure the enforceability of mediated settlements by granting them proper legal recognition, thereby preventing parties from reneging on agreed terms and upholding the integrity of the mediation process. [33]

7.2 Institutional Capacity Building

The success of Alternative Dispute Resolution (ADR) in family courts heavily relies on strong institutional support.

To begin with, it is vital to provide comprehensive training to judges, lawyers, and court officers on ADR techniques, gender sensitivity, and trauma-informed mediation to ensure they are well-equipped to handle sensitive family disputes. Establishing dedicated ADR units within each family court, staffed with trained mediators or neutral officers, can enhance the consistency and quality of mediation services.

[32] Family Courts Ordinance, 1985 s 10; Mizanur Rahman, Alternative Dispute Resolution in Bangladesh: Legal Framework and Practice (2011)

[33] BLAST and UNDP, Assessment of Court-Annexed Mediation in Bangladesh (2019)

Additionally, creating mediation rooms that ensure privacy and include counseling facilities can offer a safe and comfortable environment for the disputing parties, encouraging open dialogue and resolution.

Lastly, digitizing ADR tracking and reporting systems is essential for collecting reliable data on mediation attempts, outcomes, and durations, which can serve as a critical tool for monitoring performance and informing future policy development.

7.3 Public Awareness and Legal Literacy

Alternative Dispute Resolution (ADR) will only be truly effective if the public is aware of its benefits and trusts the system. To achieve this, awareness campaigns should be launched through media outlets, community centres and NGOs to educate people about the advantages of ADR in resolving family disputes amicably.

Integrating ADR awareness into legal aid services is also crucial, particularly to inform disadvantaged groups, especially women, that they have access to free, fair, and accessible dispute resolution mechanisms. Promoting real-life ADR success stories, particularly those involving women or vulnerable populations, can help build public confidence and normalize non-adversarial approaches to conflict.

Furthermore, incorporating ADR education into school curricula and university law programs can foster early understanding and acceptance, cultivating a culture of peaceful conflict resolution from a young age.

7.4 Integration with Informal Justice Systems

In rural and semi-urban areas of Bangladesh, informal justice systems such as shalish continue to play a dominant role in resolving family and community disputes. To enhance the effectiveness of formal Alternative Dispute Resolution (ADR), it is essential to bridge the gap between these traditional practices and the formal justice system.

This can be achieved by training local leaders and *shalishkars* in rights-based ADR approaches that align with legal and human rights standards. Establishing formal referral mechanisms will also allow unresolved or complex shalish cases to be transferred to family court ADR units for structured mediation.

Additionally, standardizing community dispute resolution processes under clear human rights guidelines is crucial to ensure that outcomes are fair, non-coercive, and free from bias, particularly in protecting the rights of women and marginalized groups.

7.5 Concluding Remarks

This research has shown that ADR, particularly mediation, holds significant promise in resolving family disputes amicably, quickly, and cost-effectively in Bangladesh. While the legal framework provides some scope for ADR, practical challenges—such as lack of training, awareness, infrastructure, and socio-cultural barriers—limit its widespread success.

Comparative insights from India, Pakistan, and the UK suggest that with proper institutional and legislative reforms, ADR can significantly reduce family court caseloads and deliver more humane and personalized justice. The way forward involves not only amending laws but also transforming the justice culture through training, public education, and inclusive practices.

In conclusion, to make family justice in Bangladesh more efficient, less adversarial, and more responsive to the emotional realities of litigants—Alternative Dispute Resolution must be mainstreamed, institutionalized, and properly resourced.

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