Law and Social Policy
Volume 7, Issue 1, September 2025

ISSN 2409-1200 (Online)
ISSN 2220-7627 (Print)

# RESOLUTION OF PROPERTY RELATED DISPUTES BY DISTRCT ADMINNISTRATION THORUGH METHODS OF ALTERNATE DISPUTE RESOLUTION: EXPLORATIVE AND COMPARATIVE STUDY

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## Abstract

*Alternative Dispute Resolution (hereinafter referred to as 'ADR') offers an effective solution, aligning with traditional methods such as the Panchayat system. ADR emphasizes dialogue, community involvement, and harmony, addressing accessibility challenges in formal courts. It is faster, cost-effective, and fosters trust and reconciliation, making it ideal for resolving land disputes. The courts of law are overcrowded with the flux of litigation and already looking for ADR methods especially in commercial and corporate matters. However, the same ADR methods can be utilised for resolving property related disputes including but not limited to inheritance among legal heirs, partition of property and cancellation of forged documents. Further, the most suited forum is the one directly involved at the grass root level i.e., District Administration. In order to explore and strengthen the concept, the dispute resolution mechanism of various countries having large urban and rural lands were duly explored such as; India, China and African countries. This study used a mixed-methods approach, including both doctrinal and non-doctrinal research methodologies, to assess the laws in Pakistan and of other countries. The article concludes that, by following a structured approach and training, the administrative system has the ability to resolve land ownership and usage disputes in a way that upholds legal principles while ensuring that the outcomes align with public policy, societal interests and justice.*

**Key Words:** *Property Disputes, Alternate Dispute Resolution, District Administration, Arbitration, Mediation.*

ISSN 2409-1200 (Online)
ISSN 2220-7627 (Print)

## 1.INTRODUCTION:

Land ownership holds deep cultural, social, and economic importance, representing identity and status for some and a valuable asset for others. Rising land demand and limited availability lead to disputes, driven by factors like overlapping/inaccurate records, unclear boundaries, unauthorized transactions, document falsification, and weak legal frameworks. These conflicts fuel social tensions, especially in culturally sensitive regions like Pakistan.

Litigation is seen as the only legally authentic means of dispute resolution (Dryzek, 1990).[1] However, Alternative Dispute Resolution (ADR) offers an effective solution, aligning with traditional methods such as the Panchayat system. ADR emphasizes dialogue, community involvement, and harmony, addressing accessibility challenges in formal courts. It is faster, cost-effective, and fosters trust and reconciliation, making it ideal for deciding land disputes. The courts are overcrowded with the flux of litigation and already looking for methods alternate dispute resolution (ADR) methods especially in commercial and corporate matters. However, the same ADR methods can be utilised for resolving property related disputes including but not limited to inheritance among legal heirs, partition of property and cancellation of forged documents.

Further, the most suited forum is the one directly involved at the grass root level i.e., District Administration. In order to explore and strengthen the concept, the dispute resolution mechanism of various countries having large urban and rural lands were duly explored such as; India, China and African countries.

## 2.LITERATURE REVIEW:

### *Property Disputes and Nature:*

Owning land can reflect an individual's status and self-worth. For certain groups, particularly investors, land is seen as a commodity that can be traded along with its resources, provided it yields financial gain or utility. A rise in the demand for land that isn't accompanied by a corresponding increase in supply will lead to significant implications for the relationships between land and people, as well as among people who are associated with land (Siti Hajar & Obed Bida, 2023).[2]

Land related disputes are either caused by dispute of ownership or dispute on distribution of land use rights, and revenue rights (Heqi Sun, 2024).[3] He further suggests that, the relevant officials have the solution to such property issues through initiation of a complaint which can be processed either through courts or through mediation under the Land Agency (Muhammad Ikhsan Siregar, Mukidi, 2018).[4]

Land disputes undermine stability and development, with traditional courts criticized for inefficiency, high costs, and win-lose outcomes that often perpetuate tensions.

### *Alternate Dispute Resolution:*

[1] J S Dryzek, *Discursive Democracy: Politics, Policy, and Political Science* (Cambridge University Press 1990).
[2] S Hajar, O Bida and E Rahmawati, 'Implementation of Land Dispute Resolution Policy Through Mediation at the Gayo Lues Land Office' (2023) 4(2) *Jurnal Desentralisasi dan Kebijakan Publik* 120 https://doi.org/10.30656/jdkp.v4i2.7199
[3] H Sun, 'On Dispute Resolution of Land Ownership and Use Rights' (2024) 3(1) *International Journal of Social Sciences and Public Administration* https://doi.org/10.62051/ijsspa.v3n1.21
[4] M I Siregar and I A Mukidi, 'A Settlement of Disputes Due to Default on Parties Providing Goods and Services via Electronics to the Government: Perspective of Presidential Regulation Number 16 of 2018 Concerning Government Procurement of Goods and Services' (2021) 3(3) *Metadata* 6.

ISSN 2409-1200 (Online)
ISSN 2220-7627 (Print)

As an alternative to the formal court system, ADR operates outside statutory legal procedures and is often referred to as "appropriate dispute resolution" as it's adaptabile to specific contexts. ADR encompasses a spectrum of mediums, ranging from direct negotiations, mediation, arbitration. The process often involves neutral third parties who facilitate resolution efforts. These third-party "neutrals may include both state and non-state actors" working to achieve mutually acceptable and equitable outcomes, in contrast to a 'zero-sum' outcome arrived at formal courts. In mediation, for instance, the neutral party assists disputants in reaching a solution based on mutual consent. In arbitration, however, a decision can be imposed. Customary arbitration, on the other hand, typically involves traditional leaders such as chiefs, family heads, or other reputable member of a community acting in the capacity of a neutral. Further, according to Muhammad Ikhsan Siregar, Mukidi (2021) ADR, by focusing on collaborative and context-sensitive solutions, seeks to take on the root causes of a clash and foster lasting resolutions.[5]

ADR, particularly mediation, offers an efficient, cost-effective, and harmonious approach; preserving relationships and fostering mutually beneficial agreements. However, mediation faces challenges, including limited public awareness, power imbalances, weak institutional support, and inadequate resources (Jumra et. el., 2024).[6]

Key factors for effective mediation include skilled mediators, strong legal and institutional frameworks, and community trust. Jumra et. el., (2024) further elaborates that, to enhance mediation's effectiveness, reforms are needed to improve legal certainty, mediator training, infrastructure, and public education, ensuring it becomes a reliable tool for resolving land disputes.[7]

ADR provides a faster, cost-effective, and less adversarial alternative to traditional courts, focusing on negotiation, mutual agreement, and "win-win" outcomes. It is particularly beneficial for disadvantaged communities facing financial or geographic barriers. Especially, poor from rural areas cannot avail access to justice either due to lack of resources or on account of distance from the courts (Abdul-Salam Ibrahim, et. el., 2022).[8]

*Property Disputes, ADR and Case of Pakistan:*

The Article 23[9], Constitution of the Islamic Republic of Pakistan, 1973 guarantees the right to property by mandating that, all the citizens of Pakistan have the right to utilize or dispose of one's property however, subject to restrictions. Such constitutional guarantee has been further fortified through laws encompassing civil and criminal liabilities. However, scope of this research relates to civil laws therefore, substantive laws like Specific Relief Act, 1877 and Procedural Laws such as Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') are most relevant.

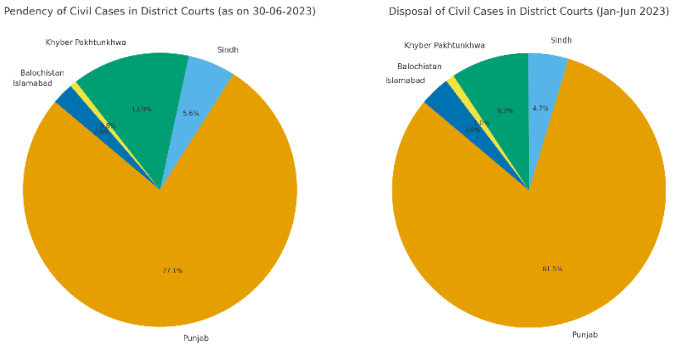
Section 15[10] CPC provides that, depending upon the pecuniary jurisdiction, suits of civil nature shall be filed at the lowest level i.e., District Courts/Trial Courts. Therefore, the District judiciary is facing the brunt of all the civil litigation. As per Report published by Law

[5] Ibid, n 4, 2
[6] T Jumra and others, 'The Role of Mediation in Land Dispute Resolution: Effectiveness and Challenges' (2024) 4(2) *Journal of Indonesian Scholars for Social Research* 89–93.
[7] Ibid.
[8] A-S Ibrahim and others, 'Resolving Land Conflicts in Ghana through Alternative Dispute Resolution: Exploring the Motivations and Challenges' (2022) 120 *Land Use Policy* https://www.sciencedirect.com/science/article/abs/pii/S026483772200299X
[9] Constitution of Pakistan 1973, art. 23.
[10] Code of Civil Procedure, s 15.

ISSN 2409-1200 (Online)
ISSN 2220-7627 (Print)

and Justice Commission, Supreme Court of Pakistan, the status of civil cases in District Courts[11] is as under:

| Territory | Pendency as on 1-1-2023 | Institution from Jan-Jun, 23 | Disposal from Jan-Jun, 23 | Pendency as on 30-6-2023 |
|---|---|---|---|---|
| Punjab | 920,003 | 689,894 | 712,080 | 907,615 |
| Sindh | 64,380 | 42,925 | 41,362 | 66,185 |
| Khyber Pakhtunkhwa | 163,537 | 78,235 | 80,659 | 163,617 |
| Balochistan | 8,946 | 9,093 | 8,886 | 9,153 |
| Islamabad | 31,937 | 29,588 | 31,194 | 30,405 |
| Total | 1,188,803 | 849,735 | 874,181 | 1,176,975 |




It is clear from this data that, the pendency is either static or not decreased as such therefore the system is not able to reduce the burden and desperately in need of outsourcing.

It is interesting to find that, Islamabad with 2nd last number of cases has implemented 'The Alternate Dispute Resolution Act, 2017' which provides through its Preamble[12] that, provision of inexpensive and expeditious justice is the responsibility of the state therefore, ADR system can be more efficient as compared to litigation. The Section 3[13] of the said Act mandates the courts to refer the civil matter to ADR, if parties agree.

Despite all the early dispensation mechanism provided by the said Act, the issue would remain somewhat the same as parties shall have to approach courts of law anyway and secondly, it must be kept in mind that, the party who has illegally drafted, executed and registered a fake, frivolous or fabricated instrument shall never agree on the ADR, especially the mediation or conciliation which would leave the court with no option but to try the same before it, hence no basic change would occur.

Recently, a breakthrough was reached in resolving property disputes at Sangar, which was pending for years and finally resolved through mediation through Legal Aid Society[14], which provides evidence that, Alternate Dispute Resolution has lot to offer than just commercial or corporate matters, hence this article as well.

[11] Law and Justice Commission of Pakistan, *Judicial Statistics Mid-Year Report January to June 2023* (Law and Justice Commission of Pakistan 2024) 7 http://www.ljcp.gov.pk/reports/bar1.pdf

[12] The Alternate Dispute Resolution Act 2017 (Pakistan) https://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apaUY2NoaJc%3D-sg-jjjjjjjjjjjj

[13] Ibid.

[14] Legal Aid Society, *LAS Success Story* (2021) https://www.las.org.pk/wp-content/uploads/2021/01/LAS-Success-Story.pdf

ISSN 2409-1200 (Online)
ISSN 2220-7627 (Print)

*Property Disputes, ADR and Case of People's Republic of China:*

After due consideration of the Land Management Law framework[15] qua means of property dispute resolution in China, this research proposes a framework of land related dispute through District Administration in a way that, the procedure for resolving land disputes through administrative adjudication, reconsideration, and litigation follows a structured approach designed to achieve fairness, legal compliance, and guarding the rights of the parties involved. The process may begin submitting an Application/Complaint is formally filed and accepted by the relevant administrative body. The concerned office then conducts a comprehensive investigation into the dispute, which includes examining the land and related documents. This step is essential for understanding the specifics of the land in question and identifying any prior transactions, ownership records, or land titles associated with the disputed property. The investigation is further supported by gathering evidence such as maps, historical documents, testimonies, and any other relevant data to ensure the accuracy of the ruling. Based on the findings from this investigation, the administrative body drafts a decision that is communicated to the involved parties. If the parties involved are dissatisfied with the ruling, they may seek appeal to the higher administrative office. This process provides an opportunity for parties to challenge the decision and request an interference by a higher administrative body. The reconsideration body evaluates the fairness, legality, and rationality of the original ruling, assessing whether the administrative actions taken were complying of relevant laws & regulations. The higher body can either uphold, modify, or overturn the initial decision, providing a second layer of scrutiny to ensure that the ruling aligns with legal and procedural requirements. Once the reconsideration body delivers its decision, it is communicated to all parties involved, offering a final attempt to resolve the dispute through administrative channels before further legal actions are considered. At this juncture it is important to add that, while resolving the land dispute the Administrative Office shall utilise ADR methods as per the nature of dispute. It is noticed that, case of mere division of land among legal heirs of a deceased can best be resolved through mediation however, where any legal heir claims ownership on the basis of an alleged deed, those probably cannot be resolved through mediation as there cannot be a middle ground in case of alleged forged deed. However, those can be dealt through mandatory Arbitration, which can be provided through inception of new laws or requisite amendments in the relevant land laws as applicable in urban or rural areas. Further, if the reconsideration process does not paves way to a acceptable resolution, the parties may escalate the dispute to Courts of Law that specializes in reviewing the legality of administrative actions. However, this will not involve a reexamination of the facts or underlying issues of the dispute. Instead, the court focuses on determining whether the administrative body acted within its legal authority and adhered to the necessary procedural requirements. The primary goal of this stage is to assess the legality and compliance of the administrative decision with the applicable laws. The court evaluates whether the actions taken by the administrative agency were in line with legal provisions and whether they aligned with public interest considerations. Based on this evaluation, the court issues a ruling, which may either uphold the administrative decision or mandate that the administrative office to take corrective actions. This ruling is generally final unless there are further legal avenues for appeal.

*Property Disputes, ADR and Case of The Republic of Indonesia:*

In Indonesia 'Office of the National Land Agency' (BPN) was established through Presidential Regulation No. 10 of 2006 including Deputy for addressing land disputes and conflicts. The

[15] Ibid, n 3

ISSN 2409-1200 (Online)
ISSN 2220-7627 (Print)

Head of the said Agency provides technical guidelines for resolving land issues, which is done through mediation as a condition precedent for reaching court of law. The Sleman Regency Land Office operates under Regulation No. 5 of 2008, which outlines job descriptions for subsections and sections, including the Subsection of 'Land Disputes and Conflicts' (Iswantoro Iswantoro, 2021).[16]

The Key Responsibilities of the Land Dispute and Conflict Subsection, as outlined in Article 46 of Regulation No. 5 of 2008, include: a) Providing recommendations to the relevant section head on legal, economic, social, political and cultural studies related to land disputes and related conflicts, including mediation and facilitation efforts. b) Analyzing regulations, policies, and guidelines as a basis for their work. c) Planning and monitoring activities related to land dispute resolution. d) Preparing materials for technical guidelines and instructions on handling land disputes and conflicts. e) Collecting, organizing, and analyzing data and information related to disputes, including recommendations for cancellation of land rights. f) Summoning involved parties for mediation or consensus-building. g) Submitting land rights cancellation requests to regional or central BPN offices. h) Compiling reports on disputes, conflicts, and cancellations. i) Conducting legal education and counseling. j) Organizing and maintaining records of disputes and conflicts. k) Conducting field inspections for dispute resolution purposes. l) Resolving conflicts through mediation, reconciliation, or facilitation. m) Researching and preparing recommendations for cancelling land rights. n) Providing technical guidance on land dispute resolution. o) Collaborating with other units to ensure smooth task implementation. p) Evaluating and reporting on activities related to land dispute handling. q) Performing other tasks as assigned by leadership. These responsibilities emphasize a structured and collaborative approach towards settling land disputes through mediation and non-litigation methods.

### *Property Disputes, ADR and Case of The Republic of India:*

In case of India ADR is not confined to commercial matters rather *Lok Adalats* are taking up cases relating to land mutations of land, land patta, forest lands, land acquisition, matrimonial and family issues, bank loans, bonded labour, etc. (Nandan Nawn, 2007).[17]

### *Property Disputes, ADR and Case of The Republic of Ghana:*

Muhammad Ikhsan Siregar, Mukidi, (2018) referred to the case of Ghana.[18] Ghana's Parliament enacted the 'Alternative Dispute Resolution Act', which established ADR committees as part of the Land Administration Project (LAP). The said Act explicitly provides for the use of customary arbitration and encourages its application, while the LAP suggests that establishment of ADR committees is an essential elements of the new Community Land Secretariats (CLS) to address local land disputes. Additionally, the Land Act of 2020 requires that parties involved in land disputes first pursue ADR options before turning to the traditional court system. As a result, chiefs, family leaders, and customary courts are legally acknowledged as mechanisms for resolving land disputes via ADR committees within the CLS framework. The said Act further mandates that, unless ADR methods were utilized, no actionable claim shall reach any court.

[16] I Iswantoro, 'Strategy and Management of Dispute Resolution, Land Conflicts at the Land Office of Sleman Regency' (2021) 1(1) *Journal of Human Rights, Culture and Legal System* https://doi.org/10.53955/jhcls.v1i1.3
[17] N Nawn, 'Legal Reforms and Economic Development in India: Case of Alternate Dispute Resolution' in *Judicial Reforms in India: Issues and Aspects* (Academic Foundation and Rajiv Gandhi Institute for Contemporary Studies 2007).
[18] Ibid, n 5, 2

ISSN 2409-1200 (Online)
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*Property Disputes, ADR and Case of The United Republic of Tanzania:*

Muhammad Ikhsan Siregar, Mukidi, (2018) further elaborated the situation in Tanzania[19], where ADR methods were established to address all disputes related to land following the implementation of the 'Land Disputes Settlements Act 2002'. This Act specifies a three-tier ADR structure for disputes related to lands; comprising the Village Land Council, Ward Tribunal and District Land and Housing Tribunal. Nevertheless, the efficacy of said ADR mechanisms has been declining recently due to issues such as financial limitations, corruption and an unclear authority. In Botswana, the Tribal Land Act, 2018 led to the creation of Land Tribunals as an alternative method for resolving land disputes. These Land Tribunals function as common law courts, consisting of legal professionals like attorneys, surveyors, and town planners, while excluding regular citizens and requiring attorneys to represent both plaintiffs and respondents.

*Key Problems in the Way of ADR and Resolutions:*

Dissemination:
Unawareness among the masses regarding Alternate Dispute Resolution methods and their effectiveness is core issue in resolution of dispute through such methods. It has been observed that, ADR has gained value in commercial and corporate sector and that too due to its campaign within such sector. Success of a policy is determined by its communication (Siti Hajar & Obed Bida, 2023).[20] Therefore, it is crucial that, conferences, talks, seminars, workshops, etc. are conducted elaborating use and means of ADR methods for property disputes.

Resources:
Siti Hajar & Obed Bida, (2023) suggests that, instructions can be communicated in a clear, consistent, and effective manner; however, if the executioner does not have the necessary resources for policy execution, the execution will not succeed.[21] Further, lack of capacity-building initiatives makes the task even more difficult. Therefore, comprehensive budgeting and allocation can resolve this issue.

Bureaucracy:
The absence of Standard Operating Procedure (SOP) concerning the mediation policies can be another huge hurdle in resolution of disputes (Siti Hajar & Obed Bida, 2023).[22] The introduction and amendment in relevant rules and regulations in procedural and administrative codes can easily resolve this deficiency

Enforcement:
The limited enforcement power under ADR methods is another hurdle however, the same can be dealt through required law making as done in the case of Tanzania where Ward Tribunals are given power to implement through fine and even prison time for people who violates the directions of the Tribunals (Muhammad Ikhsan Siregar, Mukidi, 2018).[23] Therefore, proper conferment of authority to enforce awards or decisions through relevant laws can do the needful

[19] Ibid, n 5, 3
[20] Ibid, n 3, 126.
[21] Ibid, n 3,127.
[22] Ibid, n 3, 128.
[23] Ibid, n 5, 10.

ISSN 2409-1200 (Online)
ISSN 2220-7627 (Print)

and example of Alternate Dispute Resolution Act, 2017 is an important precedence in this regard.

## 1. OBJECTIVES

This research proposes a framework for resolving grassroots property disputes through administrative offices, emphasizing accessible justice. Key recommendations include improving communication to align policy objectives with implementation, enhancing mediator training and certification, and strengthening legal structures for mediation enforcement.

It advocates digitizing land records, enforcing laws, promoting mediation, and advancing agrarian reforms for fair land distribution. Legislative amendments, new laws, and incorporating land management principles into academic curricula are also recommended to foster transparency, fairness, and sustainability in land administration.

## 2. SIGNIFICANCE & CONTRIBUTION:

Administrative agencies leverage their expertise, resources, and flexibility to resolve disputes efficiently, reducing the burden on courts while ensuring fairness and adherence to laws. The entire process of resolution of property disputes through Administrative Agency is designed to be fair and impartial, with a strong focus on objectivity, legality, and the protection of the rights of the disputing parties. By following this structured approach, the administrative system aims to resolve land ownership and usage disputes in a way that upholds legal principles while warranting that the outcomes are in consonance with public policy and societal interests. This method also allows for flexibility, enabling the administrative office to address disputes efficiently, which helps to lessen the burden on formal courts and expedite the settlement of land-related conflicts.

Therefore, it is inevitable that, another forum be utilised before approaching the courts of law. It is interesting to notice that, the said forum is already available which is just need to be properly utilised i.e., The District Administration. Administrative agencies can resolve disputes more efficiently as those are directly connected with people and land within their respective areas. This capability allows them to address conflicts swiftly, alleviating pressure on judicial systems, particularly in land management cases. Their specialized knowledge and resource distribution further enhance the effectiveness of dispute resolution.