



Resolving Commercial Disputes in Pakistan: The Role of ADR and Specialized Commercial Courts

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ABSTRACT

Commercial dispute resolution in Pakistan continues to suffer from judicial backlog, procedural delays, and limited technical expertise, weakening investor confidence and economic activity. This study examines how Alternative Dispute Resolution (ADR) particularly mediation and arbitration, alongside specialized commercial courts can provide efficient and credible alternatives. Using a doctrinal research method, it evaluates the Alternative Dispute Resolution Act 2017, provincial commercial court laws, emerging arbitration centres, and relevant judicial practices. The analysis finds that while ADR offers flexibility, confidentiality, and cost savings, its effectiveness is limited by weak enforceability mechanisms and the absence of accredited panels. Specialized commercial courts provide faster and more informed adjudication but require better resources, digital case-management, and stronger integration with ADR processes. The study concludes that Pakistan needs a modern arbitration law aligned with the UNCITRAL Model Law, mandatory mediation in select commercial matters, enhanced commercial court capacity, and investment in credible ADR institutions. These reforms are essential for building a predictable, efficient, and investor-friendly dispute resolution system capable of supporting domestic and cross-border commercial activity.

Keywords: judicial backlog, arbitration reform, mediation practices, enforcement mechanisms, investor confidence, procedural efficiency, institutional capacity, legislative modernization, comparative legal frameworks

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INTRODUCTION

The effective resolution of commercial disputes is a cornerstone of economic stability, business confidence, and the promotion of foreign and domestic investment. In Pakistan, however, the conventional court system continues to struggle under the weight of extensive backlogs, prolonged delays, and a lack of specialized expertise in complex commercial matters. These deficiencies not only erode confidence in the legal system but also discourage potential investors who seek predictable, efficient, and enforceable remedies. Against this backdrop, ADR

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mechanisms such as arbitration, mediation, and conciliation alongside the emergence of specialized commercial courts have been promoted as viable solutions to fill the gaps left by traditional litigation. The purpose of this study is to evaluate the existing framework and practices of ADR and specialized commercial courts in Pakistan, while identifying the strengths and weaknesses that shape their effectiveness. The scope includes statutory developments such as the Alternative Dispute Resolution Act 2017, provincial initiatives establishing commercial courts, and the role of emerging arbitration institutions. The central research question asks: To what extent can ADR and specialized commercial courts provide a credible, efficient, and enforceable mechanism for resolving commercial disputes in Pakistan? The working hypothesis is that while ADR and court specialization present significant opportunities, their success depends on modern legislative reform, judicial capacity-building, and institutional integration (Khan, et al., 2021; Shoukat, 2025).

Methodologically, this research employs a doctrinal approach, analysing statutes, case law, institutional practices, and comparative legal experiences from other jurisdictions. The anticipated outcome is to demonstrate that Pakistan can meaningfully improve its dispute resolution landscape through a combination of legislative modernization, stronger court–ADR linkages, and investment in institutional infrastructure. The article is organized as follows: Section two discusses the historical background and the need for reform; Section three reviews the current legal framework for ADR and specialized courts; Section four analyses the strengths and constraints of existing mechanisms; Section five explores enforcement challenges; Section six identifies cultural, professional, and institutional obstacles; Section seven draws on comparative insights; Section eight proposes reforms and recommendations; and Section nine concludes with future directions. Efficient commercial dispute resolution is indispensable for a functioning market economy. In Pakistan, lengthy litigation timelines, overloaded courts, uneven judicial specialization, and legal uncertainties relating to arbitration and mediation have pushed businesses and practitioners to seek alternatives. ADR offers flexible, party-centred processes that can reduce time and cost, while specialized commercial courts can deliver quicker, expertise-driven adjudication and a clearer appellate path for complex commercial matters. This paper examines how ADR and specialized commercial courts work in Pakistan today, where legal and institutional gaps remain, and what reforms would most effectively improve dispute resolution outcomes and investor confidence (KHAN, et al., 2021; Baig et al., 2024).

CONCEPTUAL AND THEORETICAL FRAMEWORK

This study is grounded in the theoretical foundations of dispute systems design, institutional theory, and efficiency-based models of justice, which together explain how states structure mechanisms to resolve commercial conflicts effectively. Dispute systems design highlights the need for layered pathways—such as mediation, arbitration, and specialized courts to achieve timely, cost-effective, and user-oriented outcomes. Institutional theory further guides the assessment of how legal frameworks, judicial practices, and emerging arbitration centres shape the legitimacy and functionality of commercial dispute resolution in Pakistan. Additionally, efficiency-based justice theory provides the lens to evaluate whether ADR and specialized fora reduce transaction costs, enhance predictability, and strengthen enforceability compared to

traditional courts. By integrating these concepts, the study examines how legal, procedural, and institutional arrangements interact to influence the overall performance of Pakistan's commercial dispute resolution landscape and identifies the reforms necessary to align it with international best practices (Siddiqui, 2025).

RESEARCH METHODOLOGY

This study relying primarily on qualitative analysis of statutory provisions, judicial decisions, and institutional developments relevant to commercial dispute resolution in Pakistan. Key legislative instruments such as the Arbitration Act 1940, the Alternative Dispute Resolution Act 2017, and the Punjab Commercial Courts Ordinance 2021 were examined alongside the proposed Arbitration Bill 2024 to assess the legal framework's adequacy. Case law from superior courts was analysed to understand patterns of judicial intervention and enforcement challenges. In addition, secondary sources including scholarly articles, policy reports, and comparative studies of jurisdictions such as India, Singapore, and the United Kingdom were reviewed to highlight best practices and reform lessons. The research design is analytical and comparative, aiming to evaluate existing mechanisms, identify systemic obstacles, and suggest reforms. This methodology was chosen because it provides a comprehensive understanding of both the normative framework and its practical implications, enabling the study to bridge gaps between law in theory and law in practice (Tahir, 2023).

LEGAL FRAMEWORK ADR AND COURTS

ADR: Statutes and institutional developments

Pakistan's legal framework for ADR has evolved gradually, reflecting both internal pressures for judicial efficiency and external demands for investor confidence. The Alternative Dispute Resolution Act, 2017 marked a significant milestone by providing statutory recognition to mediation, conciliation, and arbitration. It empowers courts to refer disputes to ADR, defines the role of neutral facilitators, and establishes procedures for recording and enforcing settlements. However, in practice, its implementation has been uneven due to limited judicial referral, lack of awareness among litigants, and uncertainty regarding enforceability of mediated agreements. Arbitration, long governed by the Arbitration Act, 1940, has been criticized for excessive judicial intervention, outdated procedures, and limited compatibility with international standards. To address these shortcomings, the government introduced the Draft Arbitration Bill, 2024, intended to align Pakistan's arbitration framework with the UNCITRAL Model Law. If enacted, this legislation will clarify the seat of arbitration, restrict court interference, and modernize recognition and enforcement of awards, making Pakistan more attractive as a seat for international arbitration. In parallel, institutional developments have begun to supplement statutory reforms. The establishment of centers such as the Center for International Investment and Commercial Arbitration CIICA reflects an emerging institutional ADR culture. Such bodies provide panels of accredited mediators and arbitrators, structured procedural rules, and administrative support for parties seeking efficient resolution outside state courts. While promising, these institutions remain underutilized due to limited awareness, high costs for smaller enterprises, and the dominance of court-centric dispute resolution traditions. Together, these statutory and institutional reforms

signal Pakistan's gradual transition toward a more credible ADR environment. Yet, meaningful progress requires harmonization of legal provisions with practice, wider institutional recognition, and integration of ADR into mainstream commercial dispute resolution processes (Khan, et al., 2023; Ghani & Amjad, 2024).

Specialized commercial courts and procedural reforms

The establishment of specialized commercial courts in Pakistan represents a targeted response to chronic inefficiencies in the ordinary civil justice system. Traditional courts, burdened with diverse caseloads and slow procedures, often lack the subject-matter expertise and streamlined processes required for complex business disputes. Recognizing this gap, provincial initiatives—most notably the Punjab Commercial Courts Ordinance, 2021 introduced courts dedicated exclusively to commercial matters. These courts aim to ensure faster resolution by setting strict timelines, employing simplified procedures for pleadings and evidence, and designating judges with commercial law training. Procedural reforms within these courts have attempted to replicate global best practices. Case management techniques, including limited adjournments, early identification of issues, and reliance on documentary evidence, are intended to curb delay. Importantly, these courts are also empowered to refer disputes to ADR, creating a structured interface between litigation and alternative mechanisms. In theory, this dual approach reduces trial load while providing parties with enforceable settlements when mediated or arbitrated outcomes are reached. Despite these innovations, challenges persist. Specialized commercial courts often struggle with resource constraints, limited digital infrastructure, and insufficient training for judges and staff. The coexistence of company courts, tribunals, and arbitral fora sometimes leads to jurisdictional overlaps, forum shopping, and inconsistent jurisprudence. Furthermore, without strong enforcement mechanisms and institutional support, the intended efficiency gains risk being diluted by entrenched procedural culture, including frequent adjournments and paper-based filing. Nonetheless, specialized commercial courts remain a crucial step toward modernizing Pakistan's dispute resolution framework. If adequately resourced, integrated with ADR, and supported by technological tools such as e-filing and virtual hearings, they have the potential to transform the landscape of commercial litigation by delivering timely, predictable, and expertise-driven outcomes (Khan & Usman, 2023; Arshad & Saleem, 2025).

ADR MECHANISMS: STRENGTHS AND CONSTRAINTS

Mediation and conciliation

Mediation and conciliation have emerged as increasingly recognized forms of Alternative Dispute Resolution in Pakistan, though their development remains at a nascent stage. Both mechanisms emphasize voluntary participation, confidentiality, and consensual outcomes, making them particularly suitable for preserving commercial relationships where parties may wish to continue doing business after a dispute. The Alternative Dispute Resolution Act, 2017 provides statutory backing by allowing courts to refer matters for mediation or conciliation and setting out procedures for the appointment of neutrals. In practice, however, the uptake has been limited due to cultural resistance, lack of awareness, and uncertainty about enforceability (Jurgees et al., 2024).

Mediation offers parties an opportunity to resolve disputes through a neutral facilitator who guides negotiations without imposing a decision. Conciliation, while similar, permits the conciliator to propose settlement terms, offering a more directive role. Both processes are flexible, cost-effective, and quicker than traditional litigation, and they can be adapted to the complexity of commercial disputes. Importantly, they help reduce adversarial tensions, thus fostering long-term business partnerships. Yet, significant obstacles remain. Many litigants and lawyers remain unfamiliar with mediation practices, preferring the certainty of adjudication. Mediated or conciliated settlements are often enforceable only if converted into consent decrees by courts, leading to procedural delays. Moreover, Pakistan lacks a robust accreditation and training system for mediators and conciliators, resulting in concerns about competence and impartiality. Institutional mediation centres have been established, but their integration into mainstream practice is limited. For mediation and conciliation to become viable dispute resolution tools, Pakistan requires stronger statutory enforcement mechanisms, judicial encouragement for pre-trial referrals, and professional development programs to train accredited neutrals. Over time, embedding these mechanisms within the culture of commercial dispute resolution could significantly reduce caseloads and strengthen investor confidence in the country's legal system (Khan & Usman, 2023; Baig, 2024).

Arbitration

Arbitration has long been viewed as a cornerstone of commercial dispute resolution worldwide, offering parties autonomy, confidentiality, and finality of awards. In Pakistan, however, arbitration has struggled to achieve its potential due to outdated legislation and frequent judicial intervention. The primary governing law for decades has been the Arbitration Act, 1940, a statute inherited from the colonial era. While it provided the basic framework for domestic arbitration, its provisions have become ill-suited to contemporary commercial realities. In particular, the Act permits extensive court interference in the appointment of arbitrators, the conduct of proceedings, and the setting aside of awards often resulting in delays that undermine arbitration's promise of efficiency. To address these shortcomings, Pakistan has taken steps toward modernization. The Draft Arbitration Bill, 2024 proposes to repeal the 1940 Act and align the domestic framework with the UNCITRAL Model Law on International Commercial Arbitration. Key reforms include clearer rules on the "seat" of arbitration, limited grounds for judicial review, recognition of interim measures, and streamlined enforcement of arbitral awards. If enacted, the bill would significantly reduce procedural uncertainty and enhance Pakistan's attractiveness as a venue for international arbitration, bringing it closer to global best practices. Institutional support for arbitration has also begun to grow. Bodies such as the Centre for CIICA and other private initiatives offer structured rules, panels of arbitrators, and case administration facilities. These institutions provide alternatives to ad hoc arbitration, which often suffers from lack of consistency and professional oversight. However, awareness of such institutions remains limited, and many businesses continue to rely on litigation or foreign arbitration seats due to concerns about neutrality, quality of arbitrators, and the risk of protracted enforcement proceedings in domestic courts (Khan, et al.,2020; Zeeshan et al., 2025).

Despite these challenges, arbitration remains the most viable mechanism for handling complex commercial and cross-border disputes. With the anticipated enactment of a modern arbitration statute, stronger institutional capacity, and judicial restraint in line with international standards, arbitration could evolve into a central pillar of Pakistan's dispute resolution framework. Such reforms would not only reduce caseload pressure on courts but also enhance investor confidence by offering parties a credible and predictable means of resolving disputes within Pakistan. Strengths Arbitration gives party autonomy, enforceability of awards (subject to domestic recognition and international treaties like the New York Convention where applicable), and confidentiality. Modernizing arbitration law would reduce grounds for protracted court interference and increase attractiveness as a seat for cross-border disputes. The 2024 draft Arbitration Bill signals potential progress. Constraints Under legacy rules, judicial intervention in appointment, interim measures, and setting aside can be extensive, discouraging arbitration. Institutional infrastructure (qualified panels, fast administrative support) is still developing though centres like CIICA aim to fill the gap. Enforcement of interim measures and awards requires clearer court practice to avoid delays (Khan, 2024; Farooqi & Rizvi, 2024).

Hybrid and institutional ADR

Hybrid and institutional approaches to dispute resolution represent an evolving frontier in Pakistan's commercial justice landscape. Unlike ad hoc processes, institutional ADR is administered by recognized centres that provide procedural rules, case management, and access to accredited neutrals. Hybrid models, such as med-arb where mediation is attempted first and, if unsuccessful, the same neutral or other proceeds to arbitrate, combine the flexibility of mediation with the enforceability of arbitration. These mechanisms are increasingly favoured in jurisdictions seeking both efficiency and credibility, and they hold considerable promise for Pakistan. Institutional ADR in Pakistan is still in its early stages. Centres such as the CIICA and other regional initiatives have introduced structured arbitration and mediation services with panels of qualified professionals. These institutions aim to reduce reliance on foreign seats for arbitration by offering domestic alternatives aligned with international standards. However, uptake has been limited due to lack of awareness, uneven confidence in local institutions, and higher costs that deter small and medium enterprises SMEs. Hybrid mechanisms, though conceptually appealing, face cultural and legal challenges. Concerns about impartiality arise when a mediator transitions into an arbitrator, and Pakistan's statutory framework has yet to provide detailed rules for such processes. Without clear legislative guidance, hybrid ADR risks procedural challenges during enforcement. Nevertheless, institutional and hybrid ADR models offer opportunities to address key weaknesses in Pakistan's dispute resolution system. By creating standardized procedures, ensuring transparency in the appointment of neutrals, and offering administrative support, institutions can build user confidence. Similarly, hybrid models could reduce time and costs while ensuring enforceability, provided they are backed by clear statutory rules and judicial recognition. To realize these benefits, Pakistan must invest in capacity-building for institutions, accreditation systems for neutrals, tiered fee structures for SMEs, and legislative provisions clarifying hybrid processes. Over time, institutionalization and hybridization of ADR could play a pivotal role in embedding a culture of settlement and efficiency in Pakistan's commercial dispute resolution framework (Hussain, et al., 2023; Khan et al., 2024).

SPECIALIZED COMMERCIAL COURTS: WHAT THEY OFFER AND WHAT'S MISSING

What specialization delivers

The establishment of specialized commercial courts reflects the recognition that commercial disputes demand a different approach than ordinary civil cases. These disputes frequently involve complex areas such as banking, corporate governance, trade, or intellectual property, where technical expertise and consistency in decision-making are essential. By assigning judges with training and experience in commercial law, such courts are better equipped to understand intricate issues and apply legal principles consistently. This specialization enhances predictability and strengthens business confidence in the judicial system. Another important advantage of specialized commercial courts is procedural efficiency. Unlike general civil courts, which are often characterized by lengthy adjournments and procedural delays, commercial courts employ strict case management techniques. These include reliance on documentary evidence, early identification of issues, and firm timelines for hearings. Such practices significantly reduce the time taken for dispute resolution, ensuring that commercial cases are disposed of within months rather than years. Specialized courts also play a pivotal role in integrating Alternative Dispute Resolution into the formal justice system. By referring cases to mediation or arbitration at early stages, they help reduce trial loads and promote negotiated settlements. This not only preserves valuable business relationships but also allows courts to focus on disputes that genuinely require adjudication. Beyond efficiency, the very existence of commercial courts contributes to investor confidence and economic growth. A transparent and predictable forum for resolving business disputes signals state commitment to reform and aligns Pakistan with international practices, where commercial courts are regarded as central to economic governance. Over time, these courts also contribute to precedent-building in commercial law, providing guidance for businesses, policymakers, and legislators alike (Usman, et al., 2021; Usmani et al., 2025).

Pakistan's experience and challenges

Pakistan's experience with specialized commercial courts and ADR reforms has been shaped by both legislative initiatives and judicial experimentation. The Punjab Commercial Courts Ordinance, 2021 was a landmark development, creating courts dedicated exclusively to commercial disputes and mandating time-bound procedures for their resolution. These courts were intended to ease the heavy caseload of civil courts, introduce specialized judicial expertise, and reduce uncertainty for businesses. Similar initiatives at the High Court level, including the designation of commercial benches in Sindh and Islamabad, further reflect a growing recognition of the need for specialization. Alongside this, the Alternative Dispute Resolution Act, 2017 empowered courts to refer parties to mediation and conciliation, while private institutions such as the CIICA began offering structured arbitration services. Despite these promising developments, challenges persist that limit the effectiveness of both ADR and specialized commercial courts. One major obstacle is resource constraint: many commercial courts lack adequate infrastructure, digital filing systems, and trained support staff, leading to reliance on outdated paper-based processes. While the ordinances envision strict timelines, the culture of adjournments remains entrenched, undermining procedural efficiency. In addition, capacity issues affect both judges and neutrals. Judges require sustained training in commercial law and case management, while mediators and

arbitrators need accreditation systems to ensure quality and impartiality. Another challenge lies in the fragmentation of dispute resolution fora. The coexistence of commercial courts, company courts, tribunals, and arbitral institutions often creates jurisdictional overlaps and opportunities for forum shopping. This leads to inconsistency in outcomes and procedural delays. Similarly, the enforcement of ADR outcomes remains problematic. Mediated settlements, for instance, frequently require conversion into consent decrees, which can be delayed by procedural hurdles. Arbitration, too, continues to be hampered by judicial intervention under the outdated Arbitration Act of 1940, although the proposed Arbitration Bill, 2024 offers hope for reform (Khan, et al., 2020; Hussain, 2022).

CONCLUSION

The resolution of commercial disputes lies at the heart of a functioning economy, and Pakistan's experience demonstrates both the promise and limitations of ongoing reforms. Specialized commercial courts and ADR mechanisms particularly mediation, conciliation, and arbitration—have been introduced to reduce judicial backlog, provide speed and expertise, and align Pakistan with international best practices. Yet, as the analysis shows, challenges of enforcement, excessive judicial intervention, cultural resistance, and weak institutional capacity continue to undermine the system's effectiveness. This research matters because efficient dispute resolution is directly linked to investor confidence, economic growth, and the credibility of Pakistan's legal system in the global arena. A reliable and predictable framework not only benefits large corporations but also empowers SMEs, which often lack resources to endure prolonged litigation. By embedding ADR and specialized courts into the commercial justice fabric, Pakistan can create a system that is faster, more accessible, and more business friendly.

Future reforms must focus on strengthening enforcement mechanisms, minimizing judicial interference, and enacting the proposed Arbitration Bill to replace the outdated 1940 law. Investment in training, accreditation, and digital infrastructure is essential to ensure that ADR institutions and specialized courts operate effectively. Equally important is a cultural shift, fostered through awareness campaigns and integration of ADR training in legal education, to reshape perceptions about consensual dispute resolution. Looking ahead, further research may explore comparative experiences from jurisdictions like India, Singapore, and the UK to identify models adaptable to Pakistan's socio-legal context. Empirical studies assessing the performance of commercial courts and ADR centers in Pakistan could also provide valuable insights into their practical impact. In sum, meaningful reform requires not just legal innovation but also institutional commitment, professional adaptation, and cultural transformation to ensure that Pakistan's commercial dispute resolution system evolves into one that is efficient, credible, and internationally competitive. ADR and specialized commercial courts are complementary tools for resolving commercial disputes more efficiently in Pakistan. Statutory steps already taken (ADR Act 2017, provincial commercial court ordinances, institutional growth) establish a promising foundation. The missing link is effective implementation: legislative modernization (notably an updated Arbitration Act reflecting the Model Law, consistent judicial practice limiting unnecessary intervention, well-resourced commercial courts, accredited neutrals, and greater use of technology). If policymakers, the judiciary, the bar, and the private sector collaborate on these

priorities, Pakistan can substantially reduce litigation backlog, improve enforcement certainty, and enhance commercial confidence benefitting both domestic businesses and foreign investors.

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