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A decorative graphic in the lower half of the cover features a network of glowing blue nodes and lines. The nodes are represented by small circles containing a white silhouette of a person, and they are connected by thin, white lines that form a complex, interconnected web. The background is dark teal with scattered blue dots, suggesting a digital or networked environment.

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## Enhancing Access to Justice through Alternative Dispute Resolution (ADR) in Ghana's Judicial System

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### ABSTRACT

The right to access justice is a fundamental pillar of a democracy governed by the rule of law. In Ghana, however, the judiciary was all too often constrained by case backlogs, high litigation costs and procedural delays, which eroded public confidence. In view of these issues, the judiciary launched in 2005 a programme of court-based alternative dispute resolution (ADR) which was formally incorporated in 2010 by the ADR Act (Law 798). This paper analyses the development, use and impact of alternative dispute resolution in Ghana and, in particular, the role it plays in improving access to justice. The methodology used in the study was a scope-integrated integrative review covering the period 2000-25. These included the Judicial Service's annual reports, the programme documents, the evaluations of civil society and non-governmental organisations, peer-reviewed literature and media reports. Critical material was screened and analysed thematically to define the design of the programme, its uptake, its results and the obstacles to its effectiveness. The results show that since its establishment, ADR has resolved over 30,000 disputes, with an average resolution rate of around 50 percent of cases submitted to it. The main contributions are to reduce court congestion, litigation costs and to develop reconciliation in family, land and commercial disputes. However, some barriers remain, such as a lack of awareness among citizens, a lack of capacity among mediators, uneven funding, cultural beliefs that settlement is a sign of weakness and unresolved issues of the enforceability of mediated settlements. The review concluded that alternative dispute resolution has become indispensable as a complement to litigation and as a culturally resonant and cost-effective way of obtaining justice. To sustain these gains more mediation training and more robust monitoring and evaluation systems are needed to cement ADR as a sustainable pillar of Ghana's judicial system.

### INTRODUCTION

The right to access justice is a key principle of democratic states and the rule of law, so that everyone can seek redress without unnecessary expense, time and complexity (World Bank, 2003; Tyler, 2006). However, Ghana has experienced years of problems with the judiciary in the form of backlogs of cases, high litigation costs and delays in proceedings, which continue to undermine public confidence in the judiciary (Amasah, Hassan & Nettey, 2018; Ghana Judicial Service, 2023). This is particularly problematic for disadvantaged groups, including the poor, rural populations and women, who tend to have few financial and social resources to effectively interact with the formal legal system (UNDP, 2016). Improving access to justice is therefore an urgent need for the judiciary in Ghana. The alternative to fighting such problems is ADR, which involves a form of arbitration, mediation and regular arbitration. ADR has been lauded around the world for its effectiveness, cost-efficiency and ability to achieve conciliation (Ury, Brett and Goldberg, 1988; Susskind, 1999). In Ghana, ADR is linked to a long-standing indigenous Ghanaian dispute resolution tradition in which community elders discuss and decide on conflict resolution without conflict (Amasah *et al.*, 2018). But the introduction of new colonial legal systems in the nineteenth and twentieth centuries has pushed these traditional ways aside, making litigation the ultimate method for resolving disputes (Allott, 1960). These

disadvantages of litigation, such as its formal nature, its cost and its time-consuming nature, have prompted the re-evaluation of alternative dispute resolution as a complement and alternative to court proceedings.

One of the important turning points in the ADR process in Ghana was the adoption of the 2010 Act on Alternative Dispute Resolution (Law 798). This law has given legal authority to arbitration, mediation and ordinary arbitration and an ADR centre has been set up to promote and direct this practice (Republic of Ghana, 2010). The UNCITRAL Model Law has influenced Law 798 and thus brought Ghana's ADR framework into line with global best practice (Tabiri, 2025). However, the law does not cover certain types of disputes, such as those relating to public interest, constitutional interpretation and environmental protection, which raises controversy as to whether these exceptions unduly restrict access to alternative dispute resolution (Brakopowers, 2023). Moreover, although the law has created an enabling environment, there is no real practice of alternative dispute resolution in Ghana, with some concerns about poor training of mediators, insufficient infrastructure and lack of awareness among citizens and legal practitioners (Kasser-Tee, 2020). There is empirical evidence to support the urgent need to strengthen alternative dispute resolution in Ghana. As an example, only 344 of 939 pending cases were decided by the Supreme Court in the 2022-2023 legislative year, leaving 595 cases unresolved

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and carried over to 2023-2024 (Graphic Online, 2024). In parallel, the judiciary has recently introduced a system of court transfers to cope with the increasing workload of cases, taking into account the overcapacity of the traditional court system (Pulse Ghana, 2024). These trends show the systemic backlog in litigation, which makes the judiciary less reliable and the need to find effective alternatives. If better institutionalised, alternative dispute resolution (ADR) provides an avenue to alleviate congestion, to achieve faster dispute resolution and to increase access to justice.

Although promising, there are still some gaps in the literature on alternative dispute resolution in Ghana. First, empirical data are lacking to measure the actual impact of alternative dispute resolution on the reduction of backlogs and processing times (Amasah *et al.*, 2018). Second, awareness and perception of alternative dispute resolution are poorly researched, but are much needed as a factor for legitimacy and acceptance (Kasser-Tee, 2020). Thirdly, there is the lingering issue of the sustainability and enforceability of alternative dispute resolution outcomes, especially where parties do not trust mediators or enforcement mechanisms (Brakopowers, 2023). In order to fill these gaps, it is important to carry out systematic contextual research. The document is therefore of relevance at the doctoral level given the complexity of the alternative dispute resolution (ADR) legal environment in Ghana. It requires a cross-disciplinary approach, involving law, sociology, political science and public administration, to assess how legal frameworks, traditional practices and institutional dynamics interact. It has a scientific added value by filling a clear knowledge gap by providing a peer-reviewed discussion of the use of alternative dispute resolution, challenges and opportunities in Ghana. Socially, it responds to urgent calls for more access to justice and its affordability, especially for vulnerable groups. In practice, the study will guide judicial policy reforms, capacity building programmes for ADR practitioners and the integration of ADR in the judiciary in Ghana.

### Significance of the Study

In Ghana, litigation is the predominant form of dispute resolution, although access to justice is limited for most citizens due to delays, procedural obstacles and high costs (Amasah, Hassan & Nettey, 2018). In 2010, a programme of court-linked alternative dispute resolution (ADR) was launched, which has achieved significant change by bringing mediation and arbitration into the judicial process, reducing the backlog and offering more effective methods of dispute resolution (Republic of Ghana, 2010). This study is important because it has multi-dimensional implications. In practice, alternative dispute resolution provides a more rapid, cost-effective and less adversarial approach to dispute resolution, reducing the backlog of cases and making courts more efficient. It also allows for greater involvement of the parties in the process and promotes amicable solutions

that do not destroy the relationships that are a key aspect of Ghana's family and community life (Kasser-Tei, 2020). At the societal level, alternative dispute resolution (ADR) is identified and developed on already existing culturally based approaches to dispute resolution. It promotes inclusiveness and enables marginalised groups, including women and rural people, to access justice systems they would otherwise consider as inaccessible (Amasah *et al.*, 2018). This research provides evidence of the functioning of ADR under Law 798 and the Court-Linked ADR Programme at political and academic level. The results will be used to empower ADR to support institutional capacity and provide empirical data to scholars on access to justice in Ghana.

### MATERIALS AND METHODS

This study uses a scope-integrated approach as a methodology to investigate how ADR has evolved, how it is practised and how it has contributed to improving access to justice in Ghana. The scope review is particularly appropriate because of the possibility of systematically mapping the available evidence from different sources and identifying gaps in knowledge and practice (Arksey & O'Malley, 2005). The integrative dimension also ensures that the research findings of peer-reviewed academic sources, as well as grey sources such as policy reports, programming documents and media coverage, can be integrated to provide a comprehensive picture of the ADR system in Ghana. Several sources have been used to compile the data collected between 2000 and 2025, including reports by the Ghanaian Judiciary, official ADR documents, political statements and reports by NGOs and civil society organisations on judicial sector reform. Academic articles, case studies and the media were also consulted to capture views and findings on ADR practices. The search terms were a combination of the following keywords: ADR, mediation in Ghana, court-based ADR and access to justice. Inclusion criteria were prioritised on materials containing empirical evaluations, programme evaluations or case evaluations reporting on the design, implementation and results of ADR initiatives in Ghana. Parallel screening was carried out by two independent evaluators to further ensure reliability and to limit selection bias. Data relevant were identified and summarised in thematic categories such as Design of alternative dispute resolution schemes, use patterns, reported results, constraints and policy impacts. Research has some weaknesses. There is still a lack of uniform reporting on alternative dispute resolution in Ghanaian judicial districts and a general lack of consistent impact assessment. However, this methodology provides a strong platform for examining the role of alternative dispute resolution in improving access to justice in Ghana, thanks to its systematic use of a broad range of resources.

### RESULTS AND DISCUSSION

#### ADR Institutionalization in Judicial System Ghana

The last 20 years have seen the delivery system in Ghana

change as a result of the institutionalisation of ADR. Mediation and arbitration are now a welcome addition to litigation and since the adoption of the Act on ADR (Law No 798) in 2010 (Republic of Ghana, 2010), settlements are legally enforceable. Before this framework, alternative dispute resolution was largely an informal community practice, but the Act institutionalised these mechanisms and allowed for their incorporation into broader judicial proceedings. The Magistrates' Courts have played a leading role in the introduction of mediation practices, which have been institutionalised through structured training, alternative dispute resolution desks in district and circuit courts and the development of ongoing programmes (Crook, 2005).

### **Case Disposition and Court Congestion**

ADR with a court connection has been shown to greatly help to reduce the workload of courts. According to reports from the OJ and media summaries, since 2005 more than 30 000 cases have been settled through alternative dispute resolution, with the settlement rate of pending cases accounting for nearly 50 percent (GNA [24]a, 2024b). This effectiveness was enhanced by the introduction of ADR Week, a national programme combining public education and mass mediation exercises, which resulted in a large number of cases being closed and the population sensitised (Government of Ghana, 2024).

### **User Satisfaction and Social Acceptance**

User experience with ADR is characterised by a high level of satisfaction, particularly with respect to conflicts involving the need to maintain social or family relations. Mediation is widely appreciated for its rapid, informal character and for bringing about reconciliation. Qualitative research in Ghana shows that litigants find alternative dispute resolution more fair and accessible than protracted court proceedings, especially in rural settings where courts may seem remote or intimidating (Agyeman-Duah, 2020; Crook, 2005). These impressions are consistent with Ghana's cultural value for harmony in society, which reinforces the legitimacy of alternative dispute resolution as a legal and social institution.

### **Difficulties and Unrelenting Loopholes**

However, despite the significant progress, some challenges remain. There is still a split perception among the public, with a majority still seeing litigation as the right path to justice and cultural beliefs sometimes viewing conciliation as a sign of weakness (Kasser-Tei, 2020). There are also problems of institutional capacity, with often insufficient mediators, private mediation areas and funding for rural courts (Judicial Service of Ghana, 2024). Moreover, even under Law No 798, which provides for the enforcement of negotiated settlements, some litigants are not convinced of the enforceability of the settlements (Republic of Ghana, 2010).

### **Innovations and Good Practices**

ADR Week innovations have been a powerful tool to raise public awareness and reduce back-logs by combining information and dispute resolution (GNA, 2024b). Family and land mediation is very effective in strengthening reconciliation in situations where relations are central. Moreover, judicial training programmes now include alternative dispute resolution elements, which guarantees sustainability as it gives judges the capacity to conciliate (Agyeman-Duah, 2020). Cooperation with other civil society groups and business sectors has increased the coverage of alternative dispute resolution and made it a West African prototype worldwide (Kasser-Tee, 2020). The implications for the delivery of justice. ADR thus defined the judiciary as not only a judge in itself, but also as a mediator and a diplomat. It has contributed to reducing traffic congestion, access to justice and social cohesion. However, the existing evidence base is not balanced as most of the available data is based on official and media press releases rather than independent impact assessments. Researchers stress the need for systematic assessment of comparative effectiveness of alternative dispute resolution in terms of cost, timeliness, compliance and fairness (Brakopowers, 2023). Addressing these gaps will be important to ensure the long-term sustainability of alternative dispute resolution as a pillar of the Ghanaian judicial system.

### **CONCLUSION**

As the review has shown, ADR has proven to be a valuable addition to Ghana's judicial system. With the introduction of the ADR Act (Law No 798) in 2010, the judiciary has taken controlled steps to institutionalise mediation and arbitration, which have been used to reduce court congestion and offer citizens access to more affordable and accessible justice channels. Such programmes as the Court-Connected ADR initiative and the annual ADR Week demonstrate that ADR is integrated into the management of cases, but also creates awareness. These interventions not only reduced the backlog but also increased the satisfaction of people, particularly in family, land and commercial cases, whose relations are under attack. However, certain endemic problems, such as lack of public awareness, cultural attitudes that stigmatise settlements and the lack of resources in rural courts, continue to hamper the full potential of alternative dispute resolution. The enforceability of the Mediation Agreements and the long-term viability of the financing are also issues which indicate that the establishment should be further strengthened. At the same time, Ghana's innovations, including specialised mediation, integration into judicial education and cooperation with civil society, have made Ghana a regional leader in alternative dispute resolution.

### **Recommendations**

The evidence considered recommends that alternative

dispute resolution has shown significant improvements in access to justice in Ghana, but these long-term results cannot be achieved without institutional change. Policymakers, the judiciary and civil society must work towards a coordinated, inclusive and evidence-based approach to strengthen and enhance the role of alternative dispute resolution in the process of justice. The recommendations below reflect the experience and comparative practices of Ghana.

1. Increase public awareness of alternative dispute resolution and legal literacy campaigns: ignorance amongst the population is the biggest barrier. The judiciary needs to intensify, in cooperation with civil society and local media, awareness-raising campaigns in local languages across the country to demystify alternative dispute resolution, to discuss its benefits and to build trust among citizens.
2. Scale of ADR desks: the number of ADR desks needs to be extended to all district and district court offices, particularly in rural areas. Sufficient funding should be provided for logistics, office space and case management systems to enable alternative dispute resolution to be available outside urban centres.
3. Invest in training and accreditation of mediators: A national system for mediator training, accreditation and monitoring of professional standards should be established. By integrating ADR skills into judicial training institutions, the judiciary will be empowered to have a robust long-term capacity.
4. Alternative dispute resolution programmes should not be based on donor support. The Ministry of Justice and the Ministry of Finance are recommended to allocate funds in their budgets to infrastructure for ADR, capacity building and information and to consider ways of sharing costs with a view to sustainability.
5. In order to address the problems of enforceability of negotiated settlements, the results of ADR must be better integrated into court decisions. Confidence in alternative dispute resolution will be strengthened by clear procedural rules and easily applicable enforcement mechanisms.
6. ADR can be accessed and provided digitally through

electronic ADR and virtual mediation, which can reduce costs, especially for remote populations. Pilot programmes need to be piloted with careful monitoring and adaptation to the Ghanaian realities of the digital divide.

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