



A Critical Analysis of Alternative Dispute Resolution in South Africa and Ghana

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Abstract: This article critically examines the principles, legislative framework, and operational mechanisms of Alternative Dispute Resolution (ADR) in South Africa, drawing comparative insights from Ghana's consolidated ADR framework under the Alternative Dispute Resolution Act. ADR is increasingly recognized as an essential tool to enhance access to justice, reduce court backlogs, and foster restorative outcomes in civil, criminal, and commercial disputes. The study traces the historical development of ADR in South Africa, evaluating its constitutional and statutory foundations, and analyzing key mechanisms, including arbitration, plea bargaining, and court-annexed mediation. Judicial recognition of ADR in landmark cases such as *Telcordia Technologies Inc v Telkom SA Ltd* 2007 and *Lufuno Mphaphuli & Associates (Pty) Ltd v Andrews* reinforces its legitimacy, yet fragmentation across sector-specific statutes limits accessibility, public trust, and uniformity. Ghana's ADR framework integrates arbitration, mediation, and customary dispute resolution within a single legislative instrument, supported by a national ADR Center, demonstrating a model that could inform South African reform. Using a doctrinal desktop methodology, the study analyses primary legal sources, SALRC reports, and scholarly literature to identify legislative and operational challenges. The study recommends legislative consolidation, professionalization of mediation services, expansion of court-annexed programs, integration of customary dispute resolution, and alignment with international best practices, such as the UNCITRAL Model Law. These reforms could enhance fairness, accessibility, and public confidence, enabling South Africa to realize the constitutional promise of transformative justice.

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INTRODUCTION

Alternative Dispute Resolution (ADR) is firmly embedded in South Africa's social and legal history and continues to draw normative legitimacy from indigenous systems of dispute settlement. Prior to the expansion of formal courts into rural and peri-urban communities,

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disputes were routinely resolved by traditional leaders and community councils through dialogic processes grounded in consensus-building, restitution, and social cohesion rather than adversarial adjudication (Ntlama, 2019; Himonga & Diallo, 2020). Contemporary scholarship recognizes these customary practices as inherently restorative, reflecting values of inclusivity, reconciliation, and communal justice that continue to inform modern statutory and institutional ADR frameworks in South Africa (Bennett, 2018; Rautenbach, 2021).

This historical continuity is constitutionally entrenched. The Constitution of the Republic of South Africa, 1996, affirms the right of access to justice by guaranteeing that disputes may be resolved not only by courts but also by “another independent and impartial tribunal or forum” (section 34). Recent constitutional commentary underscores that this provision deliberately accommodates arbitration, mediation, and other ADR mechanisms within a rights-based legal order that prioritizes fairness, impartiality, and accessibility (Currie, De Waal & Brickhill, 2021; Hoexter, 2023). Section 34 thus functions as a constitutional bridge between informal, community-based dispute-resolution traditions and formalized ADR processes operating within the contemporary legal system.

The current South African ADR landscape, however, is complex and fragmented. Commercial arbitration remains primarily regulated by the Arbitration Act 42 of 1965, a statute increasingly criticized for its outdated procedural orientation and limited alignment with international best practices, particularly the UNCITRAL Model Law (Butler & Finsen, 2019; Lewis, 2022). While the enactment of the International Arbitration Act 15 of 2017 modernized South Africa’s approach to cross-border disputes, domestic arbitration continues to operate under a legislative framework widely regarded as inadequate for modern commercial realities (De Ly & Rühl, 2020).

Since 1994, sector-specific legislation has played a decisive role in institutionalizing ADR in targeted areas of law. The Labor Relations Act 66 of 1995 established the Commission for Conciliation, Mediation and Arbitration (CCMA), which remains the most visible and accessible ADR institution in the country, particularly for vulnerable workers (Benjamin, 2020; Fergus, 2023). In the criminal justice context, ADR principles are incorporated through plea bargaining under the Criminal Procedure Act 51 of 1977 and restorative justice and diversion programs under the Child Justice Act 75 of 2008, reflecting a broader shift towards rehabilitative and participatory justice models (Skelton & Batley, 2019). Consumer and credit disputes are addressed through ombud schemes and tribunals established under the Consumer Protection Act 68 of 2008 and the National Credit Act 34 of 2005, thereby reinforcing policy commitments to affordable, non-adversarial dispute resolution (Stoop & Hutchison, 2021). Court-annexed mediation, introduced on a pilot basis in selected magistrates’ courts from 2014, further illustrates state-led efforts to embed ADR within the judicial system. However, empirical studies indicate uneven implementation and limited public uptake (Rule & Moyo, 2022).

Judicial endorsement has been instrumental in legitimizing ADR within South Africa’s constitutional framework. Courts have consistently affirmed party autonomy, procedural

fairness, and minimal judicial interference as foundational principles of arbitration and mediation (Lewis, 2019). While landmark cases such as *Telcordia Technologies Inc v Telkom SA Ltd* and *Lufuno Mphaphuli & Associates (Pty) Ltd v Andrews* predate 2018, recent jurisprudential analyses confirm their continued authority in shaping contemporary judicial attitudes towards ADR (Butler & Finsen, 2019; Hoexter, 2023). Nevertheless, commentators highlight persistent structural weaknesses, including fragmented regulation, inconsistent accreditation standards, uneven quality assurance mechanisms, and limited public awareness, particularly outside the labor law sphere, where ADR has achieved its greatest institutional maturity (Rautenbach, 2021; Fergus, 2023).

In contrast, Ghana's Alternative Dispute Resolution Act 798 of 2010 provides a consolidated and coherent legislative framework governing arbitration, mediation, and customary dispute resolution. The Act establishes a centralized ADR Center responsible for regulation, accreditation, and public education, thereby enhancing accessibility, coherence, and institutional legitimacy (Asante & Kludze, 2019; Sarpong, 2022). Comparative analyses suggest that Ghana's integrated model has fostered greater public confidence and cultural resonance, offering valuable normative and legislative lessons for reforming and rationalizing South Africa's fragmented ADR regime.

The objectives of this study are to:

1. Examine the constitutional, statutory, and institutional foundations of Alternative Dispute Resolution (ADR) in South Africa.
2. Evaluate the effectiveness of South Africa's ADR framework in promoting access to justice, fairness, and public confidence.
3. Compare South Africa's ADR system with Ghana's integrated ADR regime under the Alternative Dispute Resolution Act 798 of 2010 to identify lessons for reform.

The following research questions guide this study:

1. How is Alternative Dispute Resolution constitutionally and statutorily structured in South Africa?
2. To what extent does South Africa's ADR framework promote effective access to justice and procedural fairness?
3. What lessons from Ghana's consolidated ADR framework under Act 798 of 2010 can inform reforms to South Africa's ADR system?

RESEARCH METHOD

This study adopts a doctrinal desktop research methodology, relying on a systematic and critical analysis of primary and secondary legal sources relevant to Alternative Dispute Resolution (ADR) in South Africa and Ghana. The methodology is qualitative and designed to evaluate legislative frameworks, judicial interpretation, institutional arrangements, and scholarly debates surrounding ADR.

Source Identification and Selection

An initial literature search was conducted using academic databases including Google Scholar, HeinOnline, JSTOR, Sabinet, and SSRN, as well as official government and institutional repositories. This search yielded 162 sources, including legislation, case law, policy documents, law reform reports, books, and peer-reviewed journal articles.

Following a screening process based on relevance, jurisdictional focus, publication credibility, and currency, 96 sources were excluded. Sources were excluded if they were duplicative, tangential to ADR, outdated in light of legislative developments, or lacked sufficient analytical depth.

The final dataset comprised 66 sources, broken down as follows:

- 18 statutes and legislative instruments (South African and Ghanaian),
- 14 judicial decisions,
- 7 policy and law reform documents, including South African Law Reform Commission (SALRC) discussion papers, and
- 27 secondary sources, consisting of scholarly books and peer-reviewed journal articles published predominantly between 2015 and 2024.

Analytical Approach

Primary legal sources were analyzed to assess the constitutional, statutory, and institutional foundations of ADR in both jurisdictions. Judicial decisions were examined to evaluate the courts' role in legitimizing and shaping ADR practices. Secondary literature was analyzed to identify doctrinal debates, normative critiques, and reform proposals.

A comparative legal analysis was employed to assess similarities and differences between South Africa's fragmented ADR framework and Ghana's consolidated ADR regime under the Alternative Dispute Resolution Act 798 of 2010. This comparative approach enabled the identification of legislative gaps, regulatory inconsistencies, and best practices, particularly in relation to accreditation, institutional oversight, and the integration of customary dispute resolution.

Methodological Justification

The doctrinal desktop approach is appropriate for this study as it facilitates a normative and structural evaluation of ADR frameworks without reliance on empirical fieldwork. By systematically analyzing authoritative legal sources, the methodology supports the development of evidence-based recommendations for legislative reform, institutional coherence, and alignment with international best practices, such as the UNCITRAL Model Law.

FINDINGS

This section presents the study's key findings, derived from the doctrinal and comparative analysis of ADR frameworks in South Africa and Ghana. The findings are organized

thematically, beginning with South Africa's constitutional and statutory framework, followed by judicial practice, customary dispute resolution, and comparative insights from Ghana's integrated ADR model.

South African ADR Framework

This subsection examines the structure, operation, and effectiveness of ADR mechanisms within South Africa. It analyses the constitutional foundations, statutory instruments, institutional arrangements, and practical challenges that shape the current ADR landscape. Particular attention is given to fragmentation, accessibility, and regulatory coherence.

Constitutional and Statutory Foundations

South Africa's ADR framework is grounded in constitutional guarantees of access to justice and supported by a range of statutory instruments governing specific dispute resolution contexts. This subsection analyses the constitutional basis for ADR and evaluates the coherence and adequacy of the primary legislative instruments regulating ADR mechanisms.

The South African Constitution (1996) establishes the right to access justice, including alternative forums and mechanisms beyond formal courts. Section 34 guarantees that disputes may be resolved in an independent, impartial, and fair manner. Despite this constitutional foundation, the legal instruments governing ADR remain fragmented. Domestic arbitration is primarily governed by the Arbitration Act 42 of 1965, which has been criticized as outdated, especially in light of international standards. Modernization efforts through the International Arbitration Act 15 of 2017 have only partially addressed these limitations, leaving domestic arbitration and civil disputes under a less robust statutory framework (Van Niekerk, 2020). Sector-specific mechanisms such as the CCMA, consumer tribunals, and restorative justice programs provide more focused interventions but operate in silos, limiting national coordination and uniformity in standards, accreditation, and procedural rules.

Judicial Endorsement and Practice

Judicial decisions in South Africa have consistently reinforced the legitimacy and constitutional compatibility of Alternative Dispute Resolution (ADR). The courts have played a pivotal role in affirming parties' autonomy, procedural fairness, and minimal judicial interference in arbitration and mediation.

In *Telcordia Technologies Inc v Telkom SA Ltd* (2007), the Supreme Court of Appeal emphasized the principle of minimal judicial intervention and confirmed the enforceability and finality of arbitral awards, thereby strengthening confidence in arbitration as an effective dispute-resolution mechanism. Similarly, in *Lufuno Mphaphuli & Associates (Pty) Ltd v Andrews* (2009), the Constitutional Court affirmed that arbitration conducted in a fair, consensual, and impartial manner is consistent with constitutional rights, particularly the right of access to courts under section 34 of the Constitution.

Labor law illustrates the most developed and effective application of ADR in practice. The combined conciliation–arbitration model, administered primarily through the Commission for

Conciliation, Mediation and Arbitration (CCMA), has produced binding mediated settlements and expedited dispute resolution. This efficacy is reflected in cases such as *Cloete Murray v FirstRand Bank Ltd* (2011), where ADR mechanisms were instrumental in resolving complex employment disputes. Despite these judicial endorsements, ADR uptake remains limited outside the labor sector due to fragmented legislation, inconsistent practitioner qualifications, and limited public awareness (Smit, 2019).

Customary Dispute Resolution

Traditional dispute resolution mechanisms have historically played a central role in maintaining social cohesion and justice within South African communities. These mechanisms, typically administered by traditional leaders, chiefs, or community elders, are grounded in restorative and consensus-based principles that prioritize reconciliation, restitution, and communal harmony over adversarial outcomes (Banda, 2018; Monyane, 2021).

Customary ADR processes are particularly significant in rural and marginalized communities, where formal courts are geographically distant, costly, and often inaccessible. These mechanisms emphasize participatory engagement, enabling disputing parties to negotiate socially acceptable, contextually relevant solutions. Such participatory approaches foster durable settlements and reduce the likelihood of recurring conflict (Malan, 2017).

Despite their recognized value, customary dispute resolution mechanisms remain insufficiently integrated into South Africa's statutory ADR framework. While restorative justice elements are reflected in criminal justice and child justice legislation, formal recognition and institutional support for customary ADR remain limited. Scholars argue that greater statutory integration could enhance legitimacy, increase public trust, and promote equitable access to justice for communities historically marginalized by the formal legal system (Bekker, 2019; Erasmus, 2020). Proposed measures include accrediting recognized customary mediators, establishing procedural guidelines for cooperation between courts and traditional authorities, and ensuring that customary outcomes align with constitutional values such as equality, dignity, and non-discrimination (Van der Walt & Olivier, 2021).

Comparative evidence from jurisdictions such as Ghana and Botswana demonstrates that statutory recognition of customary dispute resolution significantly improves access to justice, reduces litigation costs, and strengthens the legitimacy of both traditional and formal justice systems (Asare, 2016; Tlholoe, 2018). An integrated model in South Africa could similarly bridge the divide between formal judicial processes and community-based dispute resolution, thereby reinforcing the Constitution's transformative objectives.

Ghana's Integrated ADR Framework

Ghana's Alternative Dispute Resolution Act 798 of 2010 represents a comprehensive and consolidated approach to dispute resolution, incorporating arbitration, mediation, and customary dispute resolution within a single legislative framework. This integration enhances

efficiency, accessibility, and public confidence in dispute resolution processes across civil, commercial, and community contexts (Asare, 2016; Mensah, 2018).

A central feature of the Ghanaian framework is the establishment of the Alternative Dispute Resolution Center, which regulates practitioner accreditation, sets ethical and professional standards, and promotes public awareness of ADR mechanisms (Boateng, 2019). Importantly, the Center ensures that customary dispute-resolution practices are harmonized with statutory and constitutional requirements, preserving cultural legitimacy while safeguarding fundamental human rights.

The formal recognition of customary arbitration empowers traditional authorities to resolve disputes within defined procedural parameters, while granting enforceability to their decisions under statutory law (Gyimah-Boadi, 2017; Osei-Tutu, 2020). The Act further promotes professionalization through standardized training and accreditation, and encourages multi-tiered dispute-resolution processes that prioritize mediation over arbitration. This approach reduces court congestion and litigation costs while fostering amicable settlements.

Comparative analyses indicate that Ghana's consolidated framework mitigates fragmentation and procedural inconsistencies commonly associated with sector-specific ADR statutes, such as those in South Africa (Asare, 2016; Mensah, 2018). By combining statutory enforcement, practitioner regulation, and cultural integration, Ghana's model offers a compelling legislative template for reform in other African jurisdictions.

International and Regional Context

South Africa aligns with international standards in cross-border commercial arbitration through the adoption of the UNCITRAL Model Law on International Commercial Arbitration, as implemented by the International Arbitration Act 15 of 2017. This alignment facilitates the enforcement of arbitral awards under the New York Convention and enhances South Africa's attractiveness as a venue for international commercial arbitration (Hofmeyr, 2015; Jansen, 2018).

At the regional level, harmonization efforts, such as the OHADA uniform acts on arbitration and mediation, demonstrate the benefits of legislative coherence, standardized procedures, and enforceable outcomes across member states (Nkamleu, 2020). Investor-state dispute settlement mechanisms, including those under the ICSID framework, further reinforce South Africa's engagement with international arbitration norms, providing predictability for foreign investors (Van der Merwe, 2019).

Despite these international commitments, domestic ADR mechanisms in South Africa remain fragmented, particularly in civil, consumer, and community disputes. Sector-specific statutes operate in isolation, with inconsistent accreditation standards, uneven quality control, and limited public awareness (Hoexter, 2015; Monyane, 2021). Comparative analysis with Ghana and OHADA jurisdictions suggests that South Africa could significantly enhance ADR effectiveness by adopting a unified statutory framework that integrates customary and

formal ADR processes while aligning domestic law with regional and international best practices (Boateng, 2019; Mensah, 2018).

DISCUSSION

The South African landscape of Alternative Dispute Resolution (ADR) reveals a complex interplay between progressive constitutional recognition, fragmented statutory structures, and uneven practical implementation. Despite the constitutional foundation provided by section 34 of the *Constitution of the Republic of South Africa, 1996*, which guarantees the right to have disputes resolved in “a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum,” ADR in South Africa remains largely decentralized and inconsistently regulated (Hoexter, 2015; Rycroft, 2019). The absence of a comprehensive legislative framework comparable to Ghana’s *Alternative Dispute Resolution Act 798 of 2010* has resulted in a multiplicity of sector-specific statutes governing discrete areas of dispute resolution, including the *Arbitration Act 42 of 1965*, the *Labor Relations Act 66 of 1995*, the *Consumer Protection Act 68 of 2008*, and the *National Credit Act 34 of 2005* (Jansen, 2018). Each of these legislative instruments establishes different standards, procedures, and oversight mechanisms, leading to inconsistent accreditation of mediators and arbitrators, and consequently, varied levels of public confidence and accessibility.

Judicial attitudes towards ADR in South Africa have generally been supportive, affirming the principle of party autonomy and minimal judicial interference. In *Telcordia Technologies Inc v Telkom SA Ltd* 2007 (3) SA 266 (SCA), the Supreme Court of Appeal underscored the finality of arbitral awards, emphasizing that courts should not interfere with the merits of arbitration decisions unless procedural irregularities or manifest injustices arise. Similarly, in *Lufuno Mphaphuli & Associates (Pty) Ltd v Andrews* [2009] ZACC 6, the Constitutional Court affirmed the constitutional permissibility of arbitration, provided it complies with the standards of fairness and impartiality (Rycroft, 2019). These decisions collectively underscore the judiciary’s acknowledgment that ADR mechanisms can coexist with constitutional principles of fairness, equality, and access to justice. However, despite this endorsement, ADR’s practical use outside specialized sectors such as labor and consumer protection remains limited (Monyane, 2021). The lack of uniform accreditation standards, fragmented legislation, and inconsistent government support has led to an underdeveloped ADR culture, particularly in rural and marginalized communities.

A significant challenge in South Africa’s ADR system is the limited integration of customary dispute-resolution mechanisms into formal statutory frameworks. Traditional dispute resolution processes—long practiced by chiefs, headmen, and community elders—emphasize restorative justice, reconciliation, and social harmony rather than adversarial confrontation (Mokgoro, 1997; Monyane, 2021). These mechanisms are often more accessible, culturally relevant, and cost-effective than formal court processes. Yet, despite the recognition of customary law in section 211 of the Constitution, the lack of systematic integration with statutory ADR institutions has limited the potential of these traditional systems to expand

broader access to justice (Bennett, 2019). Integrating customary ADR within national legal frameworks could enhance both legitimacy and reach, fostering a hybrid model of justice that combines constitutional guarantees with cultural inclusivity (Hinz, 2018).

Compared with Ghana, Ghana presents a less cohesive and functional model through its ADR Act, *798 of 2010*, which consolidates arbitration, mediation, and customary dispute resolution under a single statute. This legislative consolidation promotes procedural uniformity, accreditation consistency, and institutional oversight by establishing the ADR Center, which regulates and accredits practitioners while raising public awareness (Asare, 2016; Boateng, 2019). The Ghanaian model recognizes the significance of customary dispute resolution and ensures that traditional methods operate within formal procedural safeguards, thereby maintaining cultural legitimacy while upholding human rights standards (Mensah, 2018). As a result, ADR in Ghana enjoys higher levels of public trust, accessibility, and utilization across both urban and rural settings.

South Africa's fragmented ADR landscape also poses structural inefficiencies. The lack of a national ADR authority or coordinating body results in inconsistent training standards, limited data collection, and the absence of a unified code of ethics or a quality assurance system. Research conducted by the South African Law Reform Commission (SALRC, 2020) highlights the need for institutional coherence to ensure transparency, professionalization, and accountability within ADR practice. The Commission has recommended establishing a statutory ADR Council to oversee accreditation, training, and standard-setting across all sectors. Such a reform would mirror Ghana's institutional model and align South Africa with international best practices such as those outlined in the *UNCITRAL Model Law on International Commercial Arbitration* (UNCITRAL, 2006).

Moreover, public awareness of ADR options remains low, with many litigants perceiving ADR as secondary or inferior to court-based resolution. Studies indicate that effective public education campaigns, combined with judicial encouragement of ADR referrals, could significantly increase utilization (Rycroft, 2019; Hoexter, 2015). For instance, court-annexed mediation piloted in selected magistrates' courts in 2014 has achieved moderate success but lacks sufficient institutional support and public participation (De Jong, 2020). The limited rollout reflects the broader problem of inadequate coordination among governmental, judicial, and private-sector stakeholders.

From a comparative perspective, Ghana's experience demonstrates that legislative consolidation, practitioner accreditation, and public education can transform ADR from a peripheral mechanism into a mainstream justice tool. The Ghanaian ADR Center's nationwide campaigns, in collaboration with civil society organizations and local traditional authorities, have significantly increased awareness and confidence in mediation and arbitration as accessible alternatives to litigation (Boateng, 2019; Osei-Tutu, 2020). This approach underscores the importance of government commitment and institutional coordination in embedding ADR into a country's legal culture.

In sum, the South African ADR system, while constitutionally and judicially recognized, suffers from fragmentation, lack of institutional coherence, and limited public confidence. Integrating customary mechanisms, consolidating statutory frameworks, and creating a national ADR regulatory authority could strengthen its legitimacy, accessibility, and transformative potential. Drawing lessons from Ghana's integrated approach, South Africa has the opportunity to align its ADR framework with constitutional imperatives of equality, dignity, and access to justice, thereby operationalizing the broader goals of transformative constitutionalism (Klare, 1998; Hoexter, 2015).

Recommendations

Legislative Consolidation

South Africa should adopt a unified ADR statute to replace the current fragmented, sector-specific framework. A consolidated law, modeled on Ghana's ADR Act 798 of 2010, would harmonize procedures, standardize accreditation and ethical requirements, and enhance consistency and public confidence in ADR outcomes.

Establishment of a National ADR Authority

A statutory national ADR council should be created to regulate practitioner accreditation, training standards, ethical compliance, and data collection. Centralized oversight would promote professionalization, accountability, and coherence across all ADR sectors.

Integration of Customary Dispute Resolution

Customary dispute resolution mechanisms should be formally incorporated into statutory ADR frameworks, subject to constitutional safeguards. This integration would enhance cultural legitimacy, improve access to justice in rural communities, and strengthen restorative justice outcomes.

Expansion of Court-Annexed Mediation

Court-annexed mediation should be expanded nationwide, supported by judicial training and structured referral mechanisms. Increased judicial endorsement would reduce court backlogs and mainstream ADR within the formal justice system.

Public Awareness and Education

Targeted public education initiatives should be implemented to improve awareness and understanding of ADR processes. Collaboration with community organisations and legal aid structures would promote informed participation and broader uptake.

Alignment with International Best Practices

South Africa should align domestic ADR mechanisms with international standards, including the UNCITRAL Model Law, and expand the use of online dispute resolution platforms to enhance efficiency, accessibility, and cost-effectiveness.

CONCLUSION

Alternative Dispute Resolution holds significant potential to operationalize the transformative constitutionalism envisaged in post-apartheid South Africa by fostering fairness, accessibility, and social cohesion. The current South African ADR system, while constitutionally endorsed and supported by judicial precedents, suffers from legislative fragmentation, inconsistent practitioner standards, uneven public awareness, and limited integration of culturally legitimate customary practices. These constraints hinder ADR's capacity to serve as a credible, accessible, and transformative mechanism for dispute resolution.

A comparative analysis with Ghana shows that consolidated legislative frameworks, institutional oversight, practitioner accreditation, and cultural integration significantly enhance the accessibility, efficiency, and legitimacy of ADR mechanisms. Lessons from international best practices, including the UNCITRAL Model Law and OHADA regional frameworks, further underscore the importance of harmonized procedures, professionalization, and technological integration in modern dispute resolution systems.

To realize the full potential of ADR in South Africa, comprehensive reforms are necessary. Legislative consolidation, the creation of a national ADR authority, integration of customary practices, expansion of court-annexed mediation, robust public education campaigns, and alignment with international standards collectively form a blueprint for transforming ADR from a fragmented system into a coherent, constitutionally aligned instrument for justice. Implementing these recommendations would not only improve procedural efficiency but also strengthen public trust, promote social cohesion, and ensure meaningful access to justice across diverse communities. By embracing these reforms, South Africa can elevate ADR to a core mechanism of constitutional governance, embedding principles of equality, dignity, and restorative justice at the heart of its legal system.

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CONFLICT OF INTEREST STATEMENT

The author declares that there is no conflict of interest in relation to the research, authorship, or publication of this article. The views expressed are solely those of the author and do not represent the positions of any institution or organization.

DATA AVAILABILITY STATEMENT

All data used in this study are derived from publicly available sources, including statutes, judicial decisions, law reform commission reports, and peer-reviewed academic literature. No proprietary or confidential data was used. All sources cited in this article are listed in the reference section and are accessible through academic databases, legal repositories, and official government websites.

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