

Conflict Management through Appropriate Dispute Resolution (ADR): Evolving from the Courtroom Battles to Lasting Peace, Equity and Harmony

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Conflict Management through Appropriate Dispute Resolution (ADR): Evolving from the Courtroom Battles to Lasting Peace, Equity and Harmony

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Abstract

This paper discusses how Appropriate Dispute Resolution (ADR) can be harnessed towards effective conflict management for Sustainable Development. The paper notes that ADR is an effective approach and technique that ensure that conflicts are managed appropriately towards lasting peace, equity and harmony. The paper examines the various ADR mechanisms and their role in conflict management. Due to their appropriateness, the paper argues that there is need to evolve from courtroom battles towards ADR for effective conflict management. The paper proposes how this ideal can be attained in order to achieve lasting peace, equity and harmony for Sustainable Development.

1.0 Introduction

Conflict management refers to the processes and techniques adopted towards stopping or preventing overt conflicts and aiding the parties involved to reach a durable and peaceful solution to their differences¹. It has been observed that conflict management involves handling all stages of a conflict as well as the mechanisms used in the management of conflicts². Conflict management has also been described as an ongoing process by which conflicts are identified and addressed in a fair, efficient and expeditious manner³. At its core, conflict management involves strategies adopted towards avoiding, mitigating and addressing conflicts and their drivers in order to prevent them from escalating into violence⁴. It has been observed that conflict management encompasses various strategies and techniques ranging from the most informal negotiations between the parties themselves through increasing formality and more directive interventions from external sources to a full court hearing with strict rules of procedure⁵.

The goal of conflict management is to minimise the potential negative impact that can arise from conflicts and disagreements and encourage agreement and positive outcomes⁶. For example, if not well managed, conflicts can undermine development and lead to violence and human right

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¹ Leeds. C.A., 'Managing Conflicts across Cultures: Challenges to Practitioners.' *International Journal of Peace Studies*, Volume 2, No. 2, 1997

² Ibid

³ Institute of Directors., 'Conflict Management' Available at <https://www.iod.com/resources/business-advice/conflict-management/> (Accessed on 24/07/2026)

⁴ What is Conflict Management?., Available at <https://www.pon.harvard.edu/tag/conflict-management/> (Accessed on 24/07/2026)

⁵ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Glenwood Publishers Limited, 2015

⁶ Institute of Directors., 'Conflict Management' Op Cit

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abuses⁷. On the other hand, when conflicts are successfully managed, this creates suitable conditions for peace, justice, stability and prosperity towards Sustainable Development⁸. It has been correctly observed that development is not feasible in conflict situations⁹. In addition, it has been argued that due to both immediate and long-term impact of conflicts on development, effective, efficient and expeditious conflict management is a desirable ideal in order to spur peace, development and sustainability¹⁰. With conflicts being witnessed all over the world, appropriate conflict management is therefore a key global ideal towards achieving Sustainable Development¹¹.

This paper discusses how Appropriate Dispute Resolution (ADR) can be harnessed towards effective conflict management for Sustainable Development. The paper notes that ADR is an effective approach and technique that ensure that conflicts are managed appropriately towards lasting peace, equity and harmony. The paper examines the various ADR mechanisms and their role in conflict management. Due to their appropriateness, the paper argues that there is need to evolve from courtroom battles towards ADR for effective conflict management. The paper proposes how this ideal can be attained in order to achieve lasting peace, equity and harmony for Sustainable Development.

3.0 Harnessing ADR towards Appropriate Conflict Management for Lasting Peace, Equity and Harmony

Courtroom battles can undermine appropriate conflict management. In particular, due to their adversarial nature, courtroom battles can strain relationships and create animosity between the litigating parties¹². It has been observed that litigation is a combative process and is not structured to foster collaboration. Consequently, courtroom battles do not effectively address the root causes of conflicts creating the likelihood of conflicts reemerging in future while also damaging otherwise fruitful relationships¹³. On the other hand, ADR provides an appropriate forum that can ensure effective conflict management towards lasting peace, equity and harmony¹⁴. By focusing

⁷ Muigua. K., 'Understanding the Place of Conflict Management in Sustainable Development Agenda' Available at <https://kmco.co.ke/wp-content/uploads/2022/09/Understanding-the-Place-of-Conflict-Management-in-Sustainable-Development-Agenda.pdf> (Accessed on 24/07/2026)

⁸ World Bank Group., 'Fragility, Conflict & Violence' Available at <https://www.worldbank.org/en/topic/fragilityconflictviolence> (Accessed on 24/07/2026)

⁹ Muigua. K & Kariuki. F., 'ADR, Access to Justice and Development in Kenya.' Available at <http://kmco.co.ke/wp-content/uploads/2018/08/ADR-access-to-justice-and-developmentinKenyaRevised-version-of-20.10.14.pdf> (Accessed on 24/07/2026)

¹⁰ Muigua. K & Kariuki. F., 'ADR, Access to Justice and Development in Kenya.' Op Cit

¹¹ Taylor. R., 'Sustainable Development Goals and the Impact of Global Conflict, Extreme Poverty and Climate-Related Emergencies' Available at <https://lordslibrary.parliament.uk/sustainable-development-goals-and-the-impact-of-global-conflict-extreme-poverty-and-climate-related-emergencies/> (Accessed on 24/07/2026)

¹² Williams. D., 'Using Alternative Dispute Resolution (ADR) to Settle Global Intellectual Property (IP) Disputes – Part 2 – The Advantages of ADR Over Litigation in Court' Available at <https://adric.ca/using-alternative-dispute-resolution-adr-to-settle-global-intellectual-property-ip-disputes-part-2-the-advantages-of-adr-over-litigation-in-court/> (Accessed on 25/07/2026)

¹³ Ibid

¹⁴ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

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on collaboration, ADR allows parties to work together towards mutually satisfactory outcomes¹⁵. Through this approach, ADR processes are able to tackle the underlying causes of conflicts, repair and strengthen relationships, and foster reconciliation among disputing parties towards lasting peace, equity and harmony¹⁶.

Consequently, there is need to evolve from courtroom battles towards ADR in order to achieve appropriate and effective conflict management that can ensure lasting peace, equity and harmony. In order to achieve this dream, it is imperative to institutionalise ADR techniques with a focus on negotiation, mediation, conciliation and traditional/customary dispute resolution techniques among others¹⁷. In particular, it has been observed that by putting in place adequate and supportive legal, policy and institutional frameworks, it is possible to encourage the uptake of ADR towards avoiding courtroom battles¹⁸. In addition, it is necessary to establish a clear interface between ADR mechanisms and formal courts through measures such as formulating clear referral systems providing for referral of disputes from courts to ADR in order to encourage parties to avoid courtroom battles and embrace appropriate conflict management strategies¹⁹. Further, there is also need for continued public sensitization and enhanced access to information on ADR in order to boost its support and encourage the public to embrace ADR mechanisms and avoid courtroom battles²⁰.

In addition, in era of technological disruption, embracing modern technologies including Artificial Intelligence (AI) can revamp ADR for enhanced access to justice²¹. AI and other technologies can strengthen various ADR processes. For example, AI can strengthen the practice of arbitration by streamlining tasks such as document review, sifting through vast amounts of case law, arbitration awards, and negotiation patterns to provide valuable insights into dispute resolution, and providing a platform for online dispute resolution thus addressing physical barriers²². AI can also be utilised in negotiation by posing questions aimed at identifying parties' underlying interests, proposing offers, and predicting the likelihood that such offers will be accepted by all parties²³. Further, AI can support mediation proceedings through case assessments, customizing mediation

¹⁵ 6 Advantages of Alternative Dispute Resolution., Op Cit

¹⁶ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

¹⁷ Muigua. K., 'Legitimising Alternative Dispute Resolution in Kenya: Towards a Policy and Legal Framework.' Available at <https://kmco.co.ke/wp-content/uploads/2018/08/LEGITIMISING-ALTERNATIVE-DISPUTE-RESOLUTION-MECHANISMS-IN-KENYA.pdf> (Accessed on 25/07/2026)

¹⁸ Ibid

¹⁹ Muigua. K., 'Legitimising Alternative Dispute Resolution in Kenya: Towards a Policy and Legal Framework.' Op Cit

²⁰ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

²¹ Integration of Technology in Dispute Resolution., Available at [https://www.schreiberadr.com/integration-of-technology-in-dispute-resolution#:~:text=Advances%20in%20artificial%20intelligence%20\(AI,essence%20of%20alternative%20dispute%20resolution](https://www.schreiberadr.com/integration-of-technology-in-dispute-resolution#:~:text=Advances%20in%20artificial%20intelligence%20(AI,essence%20of%20alternative%20dispute%20resolution) (Accessed on 25/07/2026)

²² Ibid

²³ Shonk. K., 'AI Mediation: Using AI to Help Mediate Disputes' Available at <https://www.pon.harvard.edu/daily/mediation/ai-mediation-using-ai-to-help-mediate-disputes/> (Accessed on 25/07/2026)

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procedures, enhancing understanding of disputes, effective management of mediation sessions and generating options for resolution of disputes²⁴. Harnessing AI and other modern technologies is therefore key towards strengthening the role of ADR as an appropriate tool in conflict management.

4.0 Conclusion

In the quest towards effective conflict management for Sustainable Development, there is need to evolve from the courtroom battles and embrace ADR in order to achieve lasting peace, equity and harmony. In particular, it is necessary to revamp ADR through effective legal, policy and institutional frameworks, referral systems that encourage parties to avoid courtroom battles and embrace ADR, and public sensitization campaigns aimed at creating awareness, support and use of ADR mechanisms²⁵. Further, in an era marked by widespread growth and adoption of technology, integrating AI and other modern technologies into ADR can enhance the appropriateness of these mechanisms towards sound conflict management²⁶. Embracing ADR is therefore an appropriate strategy towards achieving effective conflict management by evolving from the courtroom battles to lasting peace, equity and harmony.

²⁴ International Bar Association., 'Guidelines on the Use of Generative Artificial Intelligence in Mediation' Available at <https://www.ibanet.org/document?id=Guidelines-on-the-use-of-generative-AI-in-mediation> (Accessed on 25/07/2026)

²⁵ Muigua. K., 'Legitimising Alternative Dispute Resolution in Kenya: Towards a Policy and Legal Framework.' Op Cit

²⁶ Integration of Technology in Dispute Resolution., Op Cit

2.0 Role of Appropriate Dispute Resolution (ADR) in Conflict Management

Some mechanisms are renowned for their appropriateness in managing conflicts. For example, techniques such as negotiation, mediation, conciliation, arbitration and Traditional Dispute Resolution Mechanisms (TDRMs) contain several key features and provide certain advantages which makes them appropriate in conflict management²⁷. It has been observed that these mechanisms contain key attributes including informality, privacy, confidentiality, flexibility and the ability to promote expeditious and cost-effective management of disputes which makes them an appropriate tool in managing conflicts towards Sustainable Development²⁸. In addition, ADR processes guarantee a system with procedural flexibility, a broad range of remedial options, and a focus on individualized justice²⁹. In addition, ADR techniques such as negotiation, mediation and conciliation focus on collaboration thus enabling parties to a conflict to work together in search of creative and mutually beneficial solutions³⁰. Through collaboration, techniques such as negotiation, mediation and conciliation make it possible to address the root causes of conflict thus resulting in mutually satisfying, long- lasting and sustainable outcomes and eliminating the likelihood of conflicts reemerging in future³¹. These features make ADR mechanisms an appropriate forum towards preserving relationships and building and sustaining long-term peace³².

Due to their features and advantages, there is need to consider processes such as negotiation, mediation, conciliation, arbitration and TDRMs as appropriate in conflict management. The use of the term 'Alternative' to describe these techniques is misleading since it may be understood to imply that these mechanisms are second-best to litigation which is not the case³³. In particular, due to challenges faced in accessing justice through litigation, ADR provides an appropriate platform towards evolving from the courtroom battles towards lasting peace, equity and

²⁷ Muigua. K., 'Alternative Dispute Resolution and Access to Justice in Kenya.' Op Cit

²⁸ Ibid

²⁹ Main. T., 'ADR: The New Equity.' Available at https://www.researchgate.net/profile/ThomasMain/publication/228182886_ADR_The_new_equity/links/53d00e470cf2fd75bc5c57a5/ADR-The-newequity.pdf (Accessed on 25/07/2026)

³⁰ Shonk. K., 'Conflict-Management Styles: Pitfalls and Best Practices' Available at <https://www.pon.harvard.edu/daily/conflict-resolution/conflict-management-styles-pitfalls-and-best-practices/> (Accessed on 25/07/2026)

³¹ Muigua. K., 'Resolving Conflicts through Mediation in Kenya.' Glenwood Publishers Limited, 2nd Edition, 2017

³² Muigua. K., 'Towards Effective Peacebuilding and Conflict Management in Kenya.' Available at <https://kmco.co.ke/wp-content/uploads/2021/05/Towards-Peacebuilding-and-Conflict-Management-in-Kenya.docx-Kariuki-Muigua-MAY-2021x.pdf> (Accessed on 25/07/2026)

³³ P. Fenn, "Introduction to Civil and Commercial Mediation", in Chartered Institute of Arbitrators, *Workbook on Mediation*, (CIArb, London, 2002), pp. 50-52

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harmony. For instance, it has been observed that due to their adversarial nature, courtroom battles usually leave one side disappointed and bitter, a situation that can strain relationships that were once productive³⁴. However, on the hand, most ADR processes including negotiation, mediation, conciliation and TDRMs allow parties to work together towards designing their own creative and collaborative solutions.³⁵ As a result, there is less friction in ADR a key feature that can be harnessed to preserve and strengthen different relationships including business relationships, employer-employee relationships and even family relationships³⁶. It has been pointed out that with the exception of binding arbitration, the goal of ADR is to provide a forum for disputing parties to work toward a voluntary, consensual agreement, as opposed to having a judge or other authority impose an outcome upon them³⁷.

It has been observed that many jurisdictions are still struggling to establish functional, timely, affordable, responsive and credible justice systems³⁸. In particular, challenges such as high legal costs, bureaucracy, complex legal procedures, illiteracy, corruption, distance from formal courts, backlog of cases in courts and lack of legal knowhow undermine access to justice court processes in Africa³⁹. It has been observed that among many African citizens, confidence in courts is weak and that only a small number of citizens have direct experience with the courts, and contact rates with courts for some marginalised groups including indigenous and local communities, women and the uneducated are even lower⁴⁰. In light of these concerns, it has been pointed out that many African citizens have lost faith in the ability of their national courts to provide timely, effective and just management of their disputes⁴¹. Consequently, ADR enables parties to avoid ineffective and/or overburdened court systems towards appropriate dispute resolution⁴². In addition, for poor, marginalized and disadvantaged litigants who face challenges in utilising court processes, ADR provides an accessible, cost-effective and expeditious forum for managing their disputes towards lasting peace, equity and harmony⁴³. Further, it has been correctly observed

³⁴ 6 Advantages of Alternative Dispute Resolution., Available at <https://btmediation.com/advantages-of-alternative-dispute-resolution/> (Accessed on 25/07/2026)

³⁵ Ibid

³⁶ Ibid

³⁷ Alternative Dispute Resolution., Available at <https://www.dol.gov/general/topic/labor-relations/adr#:~:text=Types%20of%20ADR%20include%20arbitration,%2C%20neutral%20factfinding%2C%20and%20minitrials.> (Accessed on 25/07/2026)

³⁸ Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability.' *Africa Security Brief*, No. 16 of 2011

³⁹ Ojwang. J.B , "The Role of the Judiciary in Promoting Environmental Compliance and Sustainable Development," *I Kenya Law Review Journal* 19 (2007), pp. 19-29: 29

⁴⁰ Logan. C., 'Ambitious SDG goal confronts challenging realities: Access to justice is still elusive for many Africans' Available at https://www.afrobarometer.org/wp-content/uploads/2022/02/ab_r6_policypaperno39_access_to_justice_in_africa_eng.pdf (Accessed on 25/07/2026)

⁴¹ Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability' Op Cit

⁴² United Nations Office on Drugs and Crime., 'Training Manual on Alternative Dispute Resolution and Restorative Justice' Available at https://www.unodc.org/conig/uploads/documents/publications/Otherpublications/Training_manual_on_alternative_dispute_resolution_and_restorative_justice.pdf (Accessed on 25/07/2026)

⁴³ Ibid

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that by avoiding courtroom battles, ADR improves and preserves healthy economic and community relations among disputing parties and prevents contentious courtroom processes that disrupt social life and commercial transactions through the facilitation of viable and appropriate resolutions to conflicts⁴⁴. In addition, through ADR, there is increased users' satisfaction with the outcomes of their disputes creating conditions for lasting peace, equity and harmony⁴⁵.

Evolving from courtroom battles to ADR is therefore key towards facilitating appropriate conflict management towards lasting peace, equity and harmony. There have been universal calls to actualise this agenda for Sustainable Development. For instance, at the global level, the *Charter of the United Nations* encourages a peaceful approach to management of conflicts among states⁴⁶. The Charter provides that parties to a dispute shall first of all seek a solution by *negotiation, enquiry, mediation, conciliation, arbitration*, judicial settlement, resort to regional agencies or arrangements, or other *peaceful means* of their own choice⁴⁷ (Emphasis added). Further, at a national level, the *Constitution of Kenya*⁴⁸ mandates courts and tribunals to promote ADR mechanisms including reconciliation, mediation, arbitration and TDRMs⁴⁹.

Despite their role in fostering appropriate conflict management, ADR mechanisms are yet to be effectively embraced undermining access to justice. In particular, labelling these techniques as 'Alternative' has undermined their growth at the expense of adversarial, expensive, time-consuming and technical courtroom battles⁵⁰. In addition, it has been observed that ADR techniques and programs all over the world face several challenges, including inadequate political support, human resources, legal foundations, and sustainable financing undermining the ability of citizens to access justice and resolve their differences in an appropriate, effective and expeditious manner⁵¹.

In light of the foregoing concerns, there is need to strengthen the use of ADR processes in order to achieve appropriate conflict management by evolving from courtroom battles to lasting peace, equity and harmony.

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI

⁴⁷ Ibid, article 33 (1)

⁴⁸ Constitution of Kenya., 2010., Government Printer, Nairobi

⁴⁹ Ibid, article 159 (2) (c)

⁵⁰ Muigua. K., 'Reframing Conflict Management in the East African Community: Moving from Alternative to 'Appropriate' Dispute Resolution' Available at <https://kmco.co.ke/wp-content/uploads/2023/06/Reframing-Conflict-Management-in-the-East-African-Community-Moving-from-Alternative-to-Appropriate-Dispute-Resolution-1.pdf> (Accessed on 25/07/2026)

⁵¹ Uwazie. E., 'Alternative Dispute Resolution in Africa: Preventing Conflict and Enhancing Stability' Op Cit

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