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Alternative dispute resolution (ADR) in the family courts of Bangladesh pave the way of access to justice

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Abstract
Alternative Dispute Resolution (ADR) is an alternative route for reaching a speedier and less-expensive mode of settlement of disputes. Many of the countries of the world have adopted ADR mechanism and achieved tremendous success. In Bangladesh the concept of ADR was first inserted in the Family Court Ordinance of 1985 where there are provisions for compromise or reconciliation before the starting of the trial and even before pronouncement of judgment. ADR in family courts which involve the interests of millions of people, who are not sufficiently aware of the merits of ADR and why they are failing. This paper is an attempt to provide a comprehensive idea about obstacles in the way of access to justice in family Courts of Bangladesh and to provide some recommendations for the complete success of ADR in the family Courts of Bangladesh towards the effective, non-discriminative, speedy and easy access to justice for all irrespective of race, color, sex, religion, rich or poor, literate or illiterate and elite or lower class.

Keywords: family court, conciliation, mediation, delay

Introduction

The problems of delay in disposal and resultant backlog of cases at all tiers of the judiciary, and the prohibitive costs of litigation for the parties, which have been identified as major road-blocks to access to justice, rule of law and smooth socio-economic life, continue to plague our society and polity. In fact, delay in the litigation process in our judiciary has reached such a point as to pose a formidable threat to protection and promotion of human rights. Our procedural laws which contain elements and scopes for delay have become by misuse by the party/parties procedurally hostile to the marginalized sections of the people, defeating the goals of social justice. The common law puts more emphasis on procedural fairness and justice, providing almost unlimited procedural freedom to the parties to argue more, bring in more facts and evidence and to take more time to prove their cases. The fundamental thesis is that truth is to emerge from contentious display of arguments, facts and evidences of the opposing parties in an open court, where traditionally the parties enjoy more privileges under the trumpeted due process to drag the proceedings based on procedural rights to prove or to disprove facts. Richer and stronger parties in the process gain understandable advantage over poorer parties; the truth often becomes victim of money-power and lingering and delayed procedure. Procedural justice prevails over substantive justice. There are four modes of ADR: negotiation, conciliation, mediation and arbitration systems. In negotiation system the parties are self-motivated and encouraged to settle the dispute without the intervention of a third party. Mediation and conciliation systems are very similar in that they interject a third party between the disputants, either to mediate a specific dispute or to reconcile their relationship. In case of mediation and conciliation process the facilitator may only enable communication between the parties, or may help direct and structure a settlement, but they do not have the authority to settle or provide instructions on a settlement. Another notable thing is that negotiation, mediation, and conciliation programs are non-compulsory, and depend on the readiness of the parties to reach an intentional agreement. Arbitration programs may be either binding or non-binding. Binding arbitration process is much like a judicial decision where third party decision must follow even if they disagree with the result by the disputants.

Alternative dispute resolution (ADR)

Alternative dispute resolution (ADR) indicates informal dispute resolution processes in which the parties agrees to meet with each other with the assistance of a professional third party who instigates them to resolve their dispute in a manner that is quasi formal and habitually additional consensual than is done in the courts. Mediation and arbitration are the most common forms of ADR besides there are many other forms: judicial settlement conferences, fact-finding, ombudsmen, special masters, etc. The common characteristics of all ADR methods is that they are quicker, less formalistic, inexpensive and often fewer confrontational than a court trial. ADR can refer to everything from enabled settlement discussions in which disputants are encouraged to negotiate directly with each other former to other legal process but the arbitration system that works very much like a courtroom process. According to Barrister Maudud Ahmed (Former Minister for Law, Justice and Parliamentary Affairs) said that- “to me, the generic term Alternative Dispute Resolution (ADR) is a real, practical and easily access able approach of outside court justice system, protects time and money, uses simple good judgment of the common people of the society with the leadership of the facilitator, obeys community beliefs & ethics, acts to preserve peace and harmony among the disputants, decides disputes with assistance of unbiased persons, involves with a range of processes like negotiation, mediation, arbitration, conciliation, ombudsman or even malpractice screening panel as appropriate; and creates an innovative dimension in legal

profession for better effectiveness of the over-all justice delivery system".(An exclusive television interview with Channel I on 24th March 2006). As a result, it can be said that ADR refers to the means of settling disputes without going through legal procedures. ADR processes may be facilitative, advisory, determinative or a combination.

Object of the ADR in family courts

Object of ADR to solved the dispute outside the court and reduce huge number of cases from the court system. The causes of backlog and delay in the dispute resolution process in our country are universal and philosophical because everyone assumes that a suit will continue for many years. It is the failure of our legal system to impose the necessary discipline at different stages of trial of cases allows tardy practice to extend the case lifecycle. As a result, the current backlog and delay problem in our country has reached such a proportion that it effectively denies the rights of citizens to redress their grievance. All matters relating to family laws are given due focus emphasizing on the humane aspects. Problems relating family matters are solved through negotiation, arbitration, conciliation proceedings, and in the last resort, by applying to the family court. There are a considerable number of cases dealing with expatriate Bangladeshi families. The purpose is again manifest in providing a procedure for trial of cases in camera if required for maintaining secrecy, confidentiality and for effective disposal of some complicated and sophisticated matters which may not be possible under normal law of the land.

Family courts in Bangladesh

Formation of Family Courts was on the one hand an expression of our classy legal thought, on the other hand, an acknowledgement that our outdated civil courts had failed to effectively contract with the suits relating to family affairs. The need to establish the Family Courts was established by The Family Courts Ordinance, 1985. The establishment of the family court has been considered to be a significant development for Bangladesh and family Courts have been set up in each District to make the initiative a success, a step which was necessary to be taken. The main purpose behind setting up these Courts was to take the cases dealing with family matters away from the intimidating atmosphere of regular courts and ensure that a congenial environment is set up to deal with matters such as marriage, divorce, alimony, child custody etc. An effective way of tackling the problem of pendency is to improve the efficiency of the system rather than changing the system altogether.

Jurisdiction of the Family Courts

The Family Courts' main purpose is to disposal of cases relating to family matters. However, like all other cases there are certain rules and regulations which become a matter of concern when it comes to the working of the family courts. Continuity is one of those issues. Family courts were established by the Family Court ordinance 1985 to serve of the purpose of quick, effective and amicable disposal of some of the family matters. The anxiety of the framer for the said speedy disposal of the family case is palpable in fixing only 30 days for the appearances of the defendant, in providing that if, after service of summons neither party appears when the suit is called on for hearing the court may dismiss the suit. The purpose is again manifest in providing a procedure for trial of cases in camera if required for maintaining the secrecy, confidentiality and for effective disposal of some complicated and sophisticated maters which may not be possible under moral law of the land. The judge may take the initiative to trail a case in camera by the application of any of the parties of the suit. By the Family Courts Ordinance 1985 the family courts have exclusive jurisdiction for expeditious settlement and disposal of disputes in only suits relating to dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship and custody of children. The family Courts are still working all over the country except in the hill districts of Bangladesh because family matters are resolved on the basis of local customs. When court began functioning, questions raised whether the family courts would deal only with the family matters of Muslim community or of all communities. The uncertainty lasted for a long time until in 1998 a special High Court bench of the Supreme Court in a path finding judgment removed the entire question regarding family court's jurisdiction.

Procedure followed by the Family Courts

ADR under Muslim Family Laws Ordinance, 1961 [1]:

Section 2(a) of the Muslim Family Laws Ordinance, 1961 defines that arbitration council means a body consisting of the Chairman and a representative of each of the parties to a matter dealt with in this Ordinance. Arbitration Council is thus a dispute resolution body that functions both in urban and rural areas of Bangladesh. However, council is not any independent and separate body. The Chairman of a Union Parishad or the Chairman of a Pourashava or the City Mayor has to form this Council.

ADR under the Family Courts Ordinance, 1985 [2]

The Family Courts Ordinance, 1985 provides for mechanism for reconciliation through judges as a necessary part of judicial proceeding. Two type of reconciliation proceedings are envisaged in the Ordinance:

Pre-trial Reconciliation: Section 10 of the Ordinance provides for reconciliation. According to section 10, after the written statement is filed, the Family Court shall fix a date not more than 30 days later for a pre-trial hearing of the suit. In that pre-trial hearing, the Family Court will attempt to affect a compromise or reconciliation between the parties after examining the plaint, written statement, summary evidence and documents under section 10(3).

Post-trial Reconciliation: On conclusion of the trial, another attempt is made to effect a compromise or reconciliation between the parties before the pronouncement of the judgment (section 13). Thus the actual intention of the legislature seems to be that the Family Courts should act as conciliators and mediators for the reconciliation between the parties so that the couple may have a happy conjugal life.

The Family Courts are free to evolve their own rules of procedure, and once a Family Court does so, the rules so framed override the rules of procedure contemplated under the Code of Civil Procedure. Special emphasis is put on settling the disputes by mediation and conciliation. This ensures that the matter is solved by an agreement between both the parties and reduces the chances of any further conflict. The aim is to give priority to mutual agreement over the usual process of adjudication. In short, the aim of these courts is to form a congenial atmosphere

where family disputes are resolved amicably. The cases are kept away from the trappings of a formal legal system. The shackles of a formal legal system and the regular process of adjudication causes unnecessary prolonging of the matter and the dispute can worsen over time. This can be a very traumatic experience for the families and lead to personal and financial losses that can have a devastating effect on human relations as well. The Act stipulates that a party is not entitled to be represented by a lawyer without the express permission of the Court. However, invariably the court grants this permission and usually it is a lawyer which represents the parties. The most unique aspect regarding the proceedings before the Family Court are that they are first referred to conciliation and only when the conciliation proceedings fail to resolve the issue successfully, the matter taken up for trial by the Court. The Conciliators are professionals who are appointed by the Court. Once a final order is passed, the aggrieved party has an option of filing an appeal before the High Court. Such appeal is to be heard by a bench consisting of two judges.

History of ADR [3]

Dispute resolution outside of courts is not new; societies world-over have long used non-judicial, indigenous methods to resolve conflicts. The ADR movement in the United States was launched in the 1970s, beginning as a social movement to resolve community-wide civil rights disputes through mediation, and as a legal movement to address increased delay and expense in litigation arising from an overcrowded court system. Ever since, the legal ADR movement in the United States has grown rapidly, and has evolved from experimentation to institutionalization with the support of the American Bar Association, academics, courts, the U.S. Congress and state governments. For example, in response to the 1990 Civil Justice Reform Act requiring all U.S. federal district courts to develop a plan to reduce cost and delay in civil litigation, most district courts have authorized or established some form of ADR. Internationally, the ADR movement has also taken off in both developed and developing countries. ADR models may be straight-forward imports of processes found in the United States or hybrid experiments mixing ADR models with elements of traditional dispute resolution. ADR processes are being implemented to meet a wide range of social, legal, commercial, and political goals. In the developing world, a number of countries are engaging in the ADR experiment, including Argentina, Bangladesh, Bolivia, Colombia, Ecuador, the Philippines, South Africa, Sri Lanka, Ukraine, and Uruguay. The experience of many of these countries provides important lessons.

Alternative Dispute Resolution in Different Countries

The positions of ADR in different countries of the world are given below:

ADR in China

China is a country which has been bathing in its unique philosophy for several thousand years. Even in modern China, the traditional philosophy continues to influence Chinese attitude to the world and the rules governing the world. The Chinese legal system is manmade; not one of celestial revelation or divine sources. It is the product of over twenty-five hundred years of history, culture, and tradition. And, during that time, the system has had many influences [4]. Based on the teachings of an ancient scholar [5]. Confucianism emphasizes personal growth and self-cultivation as a means of achieving greater social order and justice [6]. Stressing moral guidance and education over formal control and punishment [7].

ADR in Sri Lanka

Sri Lanka's most recent initiatives have been in relation to Arbitration and Mediation. The latest enactment on the subject is the Arbitration Act, No. 11 of 1995 which provides for a regime which recognizes party autonomy devoid of court intervention other than in a few and exceptional circumstances. The enactment of the Arbitration Act was a response to the need for expeditious resolution of commercial disputes. In 1998, the Mediation Boards Act No. 72 of 1998 was passed by Parliament. The Act provides for the legal framework for institutionalizing Mediation Boards, which are empowered to resolve by the process of mediation.

ADR in India

Arbitration is the supreme method for resolving and adjudicating commercial disputes [8]. The Arbitration and Conciliation Act, 1996 governs the "arbitration procedures" in India. Section 5 of the Act provides that notwithstanding anything contained in any other law for the time being in force, in matters governed by Part I (Sections 2 to 43), no judicial authority shall intervene except where so provided in the said part. Section 4 is a deeming provision, which lays down that where a party proceeds with the arbitration without stating his objection to non-compliance of any provision of Part I from which the parties may derogate or any requirement under arbitration agreement, it shall be deemed that he has waived his right to so object. Section 7 provides that the arbitration agreement shall be in writing and such an agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement. Section 11 of the Act provides for appointment of arbitrators and sub-section (6) thereof empowers the Chief Justice of the High Court or any person or institution designated by him to make such an appointment on the happening of certain conditions enumerated in clauses (a), (b) or (c). Section 16 of the Act is important and it provides that the arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or authority of the arbitration agreement [9].

ADR in Pakistan

Two kinds of ADR have been practiced in Pakistan; traditional ADR and public bodies based ADR. The formal refers to the traditional, centuries old system including Panchayat (in Punjab) and Jirga (in NWFP and Balochistan).

ADR in Australia

In Australia Alternative dispute resolution (ADR) is an umbrella term used to describe various ways of resolving disputes, which don't necessarily involve going to court. In some specialist areas or industries, alternative dispute resolution schemes have been set up to handle disputes more efficiently. Examples of these include: The Energy and Water Industry Ombudsman (EWOV) who investigates complaints and disputes by consumers against electricity, gas and water providers, The Australian Banking Industry Ombudsman, The Financial Industry Complaints

Scheme (FICS), The Insurance Equities and Complaints scheme (IEC), The Telecommunications Industry Ombudsman (TIO), The Estate Agents Dispute Resolution Service (EARS) deals with disputes about the conduct of estate agents and The Dispute Settlement Centre of Victoria (DSCV) set up by the Dept. of Justice.

ADR in England

The UK and Scottish Governments are both promoting proportionate dispute resolution as the most effective way of addressing disputes between the individual and the state in some cases. In England, the Special Educational Needs and Disability Tribunal has been operating since 1995, and until recently, experienced considerable year on year growth in the number of cases referred. In Scotland, there is less of a tradition of recourse to court, and the Additional Support Needs Tribunal has only been in place since 2005. There is now a legal obligation on local authorities in both countries to provide formal mediation services, and other forms of dispute resolution are also available.

ADR in France

The two main ways of alternative dispute resolution are used in France. Such as: Mediation and Conciliation. Mediation may take place either out of court or in the course of legal proceedings. Any judge to whom a dispute is referred may, with the consent of the parties, have recourse to mediation: for this purpose, he appoints a mediator, a third person who is qualified, impartial and independent. The mediation process must not exceed three months and its confidentiality is guaranteed. When mediation takes place out of court, there are no general regulations governing it. Conciliation is the agreement reached by the parties, either by discussion between themselves or through a third party, the conciliator. Conciliation aims to put an end to a dispute by means of a solution accepted by the parties.

ADR in Japan

The situation around Alternative Dispute Resolution (ADR) in Japan after 1990 has been rapidly changed, and the judicial reform movement accelerates that. The concept of out-of-court dispute resolution has existed for centuries in Japan and has often been used to explain why Japanese disputants are reluctant to resort to the formal court system [10]. Even within the court system, conciliation has been integrated as an important court procedure. Civil and family conciliation made up almost three quarters of the number of civil litigations. Conciliation has thus been commonly practiced in the Japanese legal system [11]. However, when reintroduced under a new name, "alternative dispute resolution", this old concept is now seen as an innovation based on foreign models [12]. However, due to the international development of ADR, it has been reconsidered from a minor and trivial subject to one that is seen as minor but important.

ADR in USA [13]

There are several U.S. organizations and agencies that are directly involved in arbitration and arbitration issues. These include the National Academy of Arbitrators (NAA), the American Arbitration Association (AAA), and the Federal Mediation Conciliation Service (FMCS). The NAA was founded in 1947 as a non-profit organization to foster high standards for arbitration and arbitrators and to promote the process. The NAA works to attain these objectives through seminars, annual conferences, and educational programs. The non-profit AAA offers its services for voluntary arbitration as part of its mandate to promote the use of arbitration in all fields. The FMCS, meanwhile, maintains a roster from which arbitrators can be selected and champion's procedures and guidelines designed to enhance the arbitration process. After the arbitrator is selected, both sides are given the opportunity to present their perspectives on the issue or issues in dispute. The arbitrator's decision is generally rendered within 60 days.

ADR in EU Countries

Alternative Dispute Resolution (ADR) schemes or out-of-court mechanisms as they are also known have been developed across Europe to help citizens who have a consumer dispute but who have been unable to reach an agreement directly with the trader. ADR schemes usually use a third party such as an arbitrator, mediator or an ombudsman to help the consumer and the traders reach a solution. However, these out-of-court mechanisms have been developed differently across the European Union. Some are the fruit of public initiatives both at central level (such as the consumer complaints boards in the Scandinavian countries) and at local level (such as the arbitration courts in Spain), or they may spring from private initiatives (such as the mediators/ombudsmen of the banks or insurance companies) etc.

Obstacles in the way of Access to Justice

There are few obstacles to ensure justice which can be described as follows:

a. **Delay:** A trial is delayed when it takes more time than it required according to the law. There are many reasons for delay in a suit but in civil justice system both are systematic and subjective. There are many reasons for delay: adversarial or accusatorial character of the civil process, slow process of service of the summons, claiming of interim injunctive relief, frequent adjournment of the trial, interest of the lawyers for lingering and delaying the process, parties are always dissatisfied with the judgment of lower court and made appeals to higher court, frequent amendments of the plaints and written statements, negligence of parties to present witness before the court, inadequate administrative and logistic support system and transfer of judges etc. Delay is the main obstacle in the way of access to justice. It is the complete violation of human rights norms. Right to justice is an inalienable right for a citizen. If it is found that a suit can be disposed of one or two years but ultimately it takes ten to fifteen years truly. As a result when I filed a suit that means I needs justice during that period but what happened if I got the relief after ten to fifteen years that means the necessity to file the suit may have been over [14]. For example, a suit by the husband for the restitution of conjugal right, the date on which the judgment was pronounced by the court a child was born to her [15]. These are many cases of the same kind where delay in disposal creates many social problems.

b. **Excessive cost of litigation**: The Constitution of the people's republic of Bangladesh provides that equality before law but in reality justice is not the same for everyone. Justice should be done alike to rich and poor. Where discrimination is done among the rich and the poor to deliver justice, which is not justice but injustice. It was inserted in

the charter of liberties of Henry 11and Magna Carta, where it is inscribed. "To no man will we deny, to no man will we delay, justice or right" [16] But equal justice is not possible in the ordinary court of law which involves huge amount of money. So it becomes impossible to ensure equal access to justice.

c. **Procedural complexities**: The procedural complexities are one of the main obstacles to provide justice to the people. Justice Krishna Iyer comments about the court system of India- "watching the dilatory complexities of our forensic procedures, the meaningless waste of judicial time and energy from the trail courts to the supreme courts and the easy possibility of economy of time and money, one wonders why we hesitate to change." [17]

d. **Backlog of cases:** The judicial system of Bangladesh is blocked by a vast backlog of suits or cases. The backlog of cases causes wearing delays in the adjudicating process which is, as described by Professor M. Shah Alam [18] "eating Bangladesh judiciary while delay in the judicial process causes backlog, mounting backlog puts a tremendous load on the present cases." [19]

e. **Corruption**: Corruption has entered the justice system very well. It is widely regarded as one of the tools for destroying the justice system.

f. **The lawyers and judges:** If the judges and the lawyers of a country are not honest, efficient, independent and dutiful, the people of that country may be deprived of the benefits of even good laws of the country [20].

g. **Litigants:** In our society filing of a suit is regarded as a weapon of harassment, which makes a considerable number of litigants keen to file allegations. Such conscience of humans is largely responsible for destroying the justice system.

h. **Case management:** Absence of active case management by the judicial officers is a main factor contributing to the backlog of cases. Judicial officers must be educated and well trained on effective case management. Case management and court administration is a course which is taught in different countries of the world which seems to be unaddressed in our legal curricula.

i. **Court staff:** Corruption and inefficiency of the administrative and support staff of the judiciary are also a barrier. Bribery in service of summons, in giving certified copies, finding case records, transferring cases from one court to another, in maintaining cause list disrupts justice. One author correctly stated: "truism that the quality of justice depends more on the quality of persons who administer the law than on the content of the law they administer." [21]

j. **Strength of judiciary is not enough:** The ratio of judicial officer is extremely minor in comparison with the population of the country.

k. Inconvenience of legal aid.

l. Absence of separate court for the separate subject matter.

m. Lack of accountability

n. Absence of discipline and fragmentation in the litigation and

o. The absence of versatile alternatives to full trial [22].

Advantages of ADR in Family Courts

There are some possible advantages of using ADR. Such as:

a. A dispute often can be decided much sooner with ADR.

b. When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees and court costs etc.

c. Parties have more opportunity to tell their side of the story than they do at trial.

d. ADR can preserve relationship between the parties.

e. ADR can help the parties find win-win solutions and achieve their real goals.

Disadvantages of ADR in Family Courts

a. In certain situations one side is able to dominate the other, for example, divorce cases, making the courts a better option for a weak party.

b. Where a dispute involves difficult legal points a mediator or arbitrator is unlikely to have the same legal expertise and knowledge as a judge.

c. It isn't easy to predict the outcome of a dispute decided through ADR as there is no system of precedent.

d. Most forms of ADR are not legally binding, making any award difficult to enforce.

e. If using ADR fails to resolve the dispute, court action may still be needed. This adds to the costs and delays compared to taking a dispute direct to the courts in the first place.

f. There is no guaranteed resolution. With the exception of arbitration, alternative dispute resolution processes do not always lead to a resolution.

Judicial Delay in the Family Courts

Law is nothing but some set of rules and also more than norms. Each state has several objectives in behind the creation of a law and the law is created to enforce its objectives. With the changing demands of the society its legal system, changes. The Family Courts Ordinance 1985 thus provided the courts with arms to exercise mediation in suits pending before it both at the pre trial stage under Section 10 and after taking all the evidence before judgment fixing a date of preliminary hearing under Section 13. Unfortunately since the enactment of the Ordinance, the Family Courts failed to take cognizance or to apply these provisions to mediate disputes in pending suits before them. The other reason for recommending mediation in Family Courts is that it involves the direct participation of the parties in dispute. The parties are mandatorily encounter along with their legal councils and other involved persons at private meetings at any time during the law suit in the presence of a impartial third party who, a judge, is a trained facilitator at conflict resolution. The parties are permissible to give opinion to clear their position in a joint session before settlement. Opportunities are deliberated confidentially. Often, the mediator shares with parties studied prediction of the outcome of the litigation. Thus, the parties are helped to gain better understanding of their respective position and likely result, if they proceed with litigation. In a conservative country like Bangladesh it provides a great opportunity for an aggrieved person who is a woman, to directly participate in the dispute resolution process and voice her grievance. Given the

traditional mind set, the female aggrieved parties, in the society, are not prone to expose themselves to public eye by going to court. Mediation by a Family Court removes the risk of such exposure and allows them to participate in their affairs and to settle disputes without being condemned by critical eyes. Direct participation of the female parties to the dispute has thus to a great extent facilitated and contributed the success of the project. Training is imparted to the lawyers as they are the ones on whose advice litigants rely most. It is felt that without their cooperation introduction of mediation in the civil courts will not be successful. The aim has been to dispel their fear of loss of cases, financial hardship and above all fear of unknown and to give assurance that mediation will not adversely affect them financially but will open up new horizons for them. A successful mediation lawyer will always attract new clients wanting to try mediation who would otherwise have rejected the court. The judges have been facing problems and challenges as to how mediation in family courts could be practically implemented in Bangladesh. At the beginning none of the judges had mediation experience in the court room. With the passage of time and more experience, it is found that for the present, pure mediation in every case is not really suitable for the legal system. The judges were allowed to split their time between mediation and their traditional court responsibility, thereby the time of the judges are not wasted and their credits are not affected.

Recommendations

There is no alternative to ADR to settle a suit within a short time and at a lower cost. The recommendations are as follows:

1. Knowledge and awareness among the people should be increased;
2. Legal professionals should play adequate role;
3. Implementation of institutional framework;
4. Arrange training programs for lawyers and judges regarding mediation;
5. Positive impression among the lawyers regarding ADR;
6. Separate skilled and trained mediators should be appointed only for performing mediations;
7. Appoint quality judges and judicial officers need to be increased significantly.
8. Provide adequate training and education to members of the judiciary; and
9. Emphasis should be given on active case management.

Conclusion

Delay in our judiciary is destroying the justice system. Many cases are losing importance due to the late trial. It also shows that since there is no need for more than 1- 2 years to finish the disposal of a civil suit, that case is pulled for more than 10 years or even more. The disputants are deprived of the benefit of the suit. It has become a factor of injustice, a violation of human rights. Out of the twelve principles of equity delay defects equity is one of them. The longevity of the suit is also liable to cause the violation of natural justice. Asking for justice, the disputants become part of a long, prolonged and tormenting procedure, not knowing when it will finish. Winhen a trial is sought through a suit, the disputants have some motives behind the suit and some demands that they make the suit based on the demand. The delay in disposal of a suit takes the parties away from the demand, as a result at the time of delivery of judgment, the purpose with which the parties filed the suit was largely lost. Only the ADR can facilitate the access to justice in Bangladesh.

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