

**UNIVERSITY OF GHANA
COLLEGE OF HUMANITIES**

**EXPLORING THE USE OF COURT-CONNECTED ALTERNATIVE DISPUTE
RESOLUTION MECHANISMS IN INTIMATE PARTNER DISPUTES IN GHANA: A
CASE STUDY OF GREATER ACCRA.**

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INTEGRI PROCEDAMUS

DECLARATION

I hereby declare that this thesis is the result of my own research and investigations conducted at the University of Ghana, under the supervision of Professor Dan-Bright S. Dzorgbo and Professor Steve Tonah. All references cited in this work have been duly acknowledged, and I take full responsibility for any errors or omissions that may be found.

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DEDICATION

This work is dedicated to my loving family; my mother, Yaa Amponsaa, for her unwavering support, encouragement, and endless sacrifices. My siblings, Collins, Douglas, Joyce and George, for their constant believe in me and their boundless love, and my children, whose joy and presence inspire me every day.



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ABSTRACT

In Ghana, the resolution of disputes between intimate partners such as divorce, child custody, and property division has traditionally been handled through formal litigation or community-based interventions steeped in cultural norms. However, these methods often leave parties feeling disempowered and unheard, especially within a rigid legal system that may not accommodate the emotional complexities of intimate relationships. For the first time, this study takes a groundbreaking approach by using a qualitative methodology, through the lens of legal consciousness theory to explore how Court-Connected Alternative Dispute Resolution (CCADR) is being employed to resolve intimate partner disputes in Ghana. Through the voices of 28 disputants, and live observation of 14 couple mediation sessions at two CCADR units in Greater Accra, this research delves into the lived experiences of those navigating these processes, offering new insights into the challenges and opportunities that arise.

The findings reveal the transformative potential of CCADR offering a more humane, culturally sensitive, flexible and emotionally supportive avenue for conflict resolution. Participants reported a higher sense of control over the resolution process, reduced financial strain, and the opportunity for constructive dialogue. However, challenges remain, including power imbalances between disputing parties, inconsistent enforcement of mediation outcomes, limited legal recourse in cases of non-compliance, and the complexity of navigating CCADR without professional legal guidance.

This study contributes to knowledge by providing insights into the practical application of CCADR in resolving intimate partner disputes in a Ghanaian context, positioning it as a tool for addressing deeply personal conflicts in ways that are more culturally attuned and emotionally supportive. The study recommends that the Judicial Service of Ghana considers offering CCADR options at the Court Registry stage to allow clients to opt for that option early in the litigation process.

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LIST OF ABBREVIATIONS

CCADR	Court -Connected Alternative Dispute Resolution
ADR	Alternative Dispute Resolution
JC	Judicial Service of Ghana
LC	Legal Consciousness
LCC	Law Court Complex
CBD	Central Business District
TJ	Therapeutic Jurisprudence



CHAPTER ONE

INTRODUCTION TO THE STUDY

1.1 Background

As a foreign diplomat in East Africa once joked, it is easier for one to pass through the mouth of a lion than to go through the . . . legal system.

-Uwazie

In today's rapidly evolving world, dispute resolution methods have significantly transformed. While traditional litigation remains relevant, it is no longer the sole avenue for seeking justice (McGregor, 2015; Balzer et al., 2021; Cortes, 2023). According to Reich (2018), about 80% of disputes in the European Union are resolved outside the courtroom, a trend that is even more pronounced in intimate partner disputes such as family matters, relationship issues, and domestic disagreements where about 90% of cases are resolved through alternative means (Holtzworth-Munroe et al., 2021).

Globally, the recognition of the limitations of traditional legal proceedings has led to the exploration of Alternative Dispute Resolution (ADR) methods. ADR offers mechanisms for resolving conflicts outside of the courtroom, encompassing both agreement-based approaches like mediation and conciliation, as well as adjudicative methods such as arbitration (McGregor, 2015; Kruger, 2023; Beilfuss et al., 2023). These alternative pathways are attractive due to their flexibility and the availability of diverse resources, which allow for more tailored outcomes that better satisfy all parties involved (Singer, 2018).

Focusing on the African continent, and specifically Ghana, there is a growing utilization and institutionalization of ADR mechanisms within the legal system. These mechanisms address a

variety of civil cases, including domestic disputes, commercial disputes, and, more recently, criminal cases involving misdemeanors (Fiadjoe, 2013; Apuko-Awuni, 2022).

Chase (2005) posits that a society's dispute resolution methods are deeply intertwined with the culture they help maintain or construct. ADR methods, therefore, align well with traditional African justice principles, particularly the emphasis on reconciliation. Pre-colonial African societies, despite lacking formal legal structures, relied on norms, customs, traditions, and religious beliefs to resolve conflicts and maintained social order (Nukunya, 2003; Quansah, 2011; Uwazie, 2011). A notable example is the Gacaca courts in Rwanda, established after the 1994 genocide. These community-based courts aimed to address the crimes committed while promoting reconciliation and social healing, reflecting a unique blend of accountability and restorative justice (Clark, 2010). Such practices underscore the depth and diversity of traditional African cultures in fostering peace and justice within their communities (Nukunya, 2003).

In Ghana, indigenous methods for dispute resolution have long been embedded in the social and cultural fabric of the society. Chiefs, queen mothers, family heads, and traditional leaders played central role as arbitrators, resolving conflicts through informal courts that upheld local customs and values (Boateng & Afranie, 2020). Additionally, spiritual and religious practices were integral, with spiritual leaders and healers offering rituals and counsel to address the emotional and spiritual aspects of conflicts (Gyekye, 1995; Campion & Acheampong, 2014). These practices emphasized communal involvement, restorative justice, and cultural integration, effectively maintaining harmony within families and communities (Gyekye, 1995; Nolan-Haley & Annor-Ohene, 2014).

The modern Court-Connected ADR framework in Ghana builds upon these traditional methods by providing a structured, efficient, and culturally sensitive approach to resolving disputes. This framework does not only align with age-old values but also enhances them, offering an effective

means of addressing conflicts, including intimate partner disputes, in a manner that resonates with Ghanaian cultural traditions.

Since the late 1990s, Alternative Dispute Resolution (ADR) has seen significant development in Ghana, culminating in its formal institutionalization by the Judicial Service of Ghana (JS) in 2005. This initiative was designed to empower disputants by directly involving them in the resolution of their disputes while also alleviating the backlog of court cases (Judicial Service Report, 2018). ADR has since become a preferred method for many seeking efficient, flexible, and affordable justice, aligning well with Ghana's cultural traditions of conflict resolution (Fiadjoe, 2013). The integration of ADR into the formal justice system under Court-Connected Alternative Dispute Resolution (CCADR) reflects Ghana's ability to blend traditional practices with modern legal frameworks, creating a hybrid system that effectively combines court proceedings with ADR mechanisms (Amoasi, 2021; Crook, 2012; Boateng & Darkwa, 2021).

While extensive research has been conducted on ADR's application in various contexts such as land, chieftancy and commercial disputes etc., there is a lack of focused research on its use in resolving intimate partner conflicts, like domestic and matrimonial disputes in Ghana (Crook, 2012; Morhe, 2021). Meanwhile, Ghana's Judicial Service reports highlight that family and matrimonial cases constitute a significant portion of CCADR cases, with the 2020 report noting that 70% of resolved cases involve these disputes. Despite this, the literature remains relatively silent on the specific analysis of ADR in family and matrimonial contexts, leaving a gap in understanding Ghana's perspective on limited legal agency in CCADR processes (Basu, 2012; Singer, 2018). This information, thus, raises some exploratory queries that could be beneficial to the Ghanaian society and beyond.

1.2 Statement of the Problem

Resolving intimate partner conflicts through Court-Connected Alternative Dispute Resolution methods (CCADR) is a complex and sensitive issue that has garnered increasing attention in both academic literature and professional practice globally (Basu, 2012; Daicoff, 2015; Lundy et al., 2022). While traditional litigation is available, it often fails to align with the nuanced dynamics and relational intricacies inherent in intimate partnerships (Krebs, 2000; Price, 2018). Integrating CCADR into intimate partner conflicts ranging from disagreements over finances to child custody and property division requires a careful consideration of cultural dynamics, legal frameworks, interpersonal relationships, and ethical implications (Van Ness & Strong, 2016).

Globally, there has been significant research on innovative dispute resolution methods aimed at reducing acrimony and mitigating negative effects in family disputes (Basu, 2012; Price, 2018; Azizah et al., 2023). Studies have particularly focused on the role of mediation in contexts such as divorce and separation, child custody arrangements, the division of jointly acquired property, and elder care conflicts (Parkinson, 2019; Quek Anderson et al., 2022). However, the effectiveness of ADR in these areas remains a topic of debate (Stubbs, 2010). While some researches praise ADR for fostering a more collaborative approach to resolving such disputes (Daicoff, 2015; Parkinson, 2019), others criticize it for potentially overlooking power imbalances related to factors such as class or gender, which can compromise the fairness of the process (Nader, 1997; Basu, 2012).

In Ghana, statistical reports from the Judicial Service indicate that approximately 70% of cases referred to CCADR are domestic in nature, involving family and matrimonial disputes (Judicial Service of Ghana Report, 2014; 2018; 2020). Despite the increasing utilization of CCADR in these contexts, there remains a significant gap in the literature concerning the sector-specific application of ADR to intimate partner disputes. Existing research is notably silent on critical aspects such as

the efficacy, accessibility, outcomes, and user experiences of CCADR among this specific population. This gap not only affects the understanding of ADR's impact within Ghana's domestic context but also limits the country's contribution to global discourses on CCADR, particularly in relation to the concept of limited legal agency within these processes (Nader, 1997; Basu, 2012; Stubbs, 2010).

The present study aimed to address these gaps by contributing to the discourse on ADR, specifically within the Ghanaian context. It sought to explore the experiences of individuals who utilized (CCADR) for resolving family and matrimonial disputes. Additionally, the study provides a platform for Ghana's unique perspective on the broader, contentious global discussions surrounding limited legal agency in ADR processes. Further, it examines the opportunities and challenges the CCADR framework presents for the parties and the legal system, ultimately informing policy and practice.

1.3 Objectives of the study

The general objective of this study is to explore the use of Court -Connected Alternative Dispute Resolution (CCADR) mechanisms in resolving intimate partner disputes in Ghana.

Specifically, the study aims to:

- 1) Examine the processes involved in the use of Court -Connected ADR in Ghana.
- 2) Investigate the reasons intimate partners engage CCADR in dispute resolution in Ghana.
- 3) Document the outcome of intimate partners' usage of CCADR in Ghana.
- 4) Analyze the lived experiences of intimate partners who use CCADR to resolve their dispute in Ghana.

1.4 Research Questions

In tandem with the objectives, the study seeks to answer the following questions:

1. What are the processes involved in CCADR mechanisms among intimate partner disputants in Ghana?
2. Why do Intimate Partners engage CCADR mechanisms in their dispute resolution?
3. What is the outcome of CCADR usage among Intimate disputants in urban Ghana?
4. What are the lived experiences of Intimates Partners who engage CCADR mechanisms in their dispute resolution in urban Ghana?

1.5 Justification of the Study

The increasing prevalence of intimate partner disputes in Ghana highlights the pressing need for accessible, efficient, and culturally relevant mechanisms for conflict resolution. Court-Connected Alternative Dispute Resolution (CCADR) mechanisms, which integrate informal mediation practices within the formal judicial system, present a promising solution to addressing these disputes.

CCADR has gained traction globally as a means of reducing the financial, emotional, and procedural burdens associated with formal litigation (Price, 2018). In the Ghanaian context, these mechanisms are particularly relevant given the high costs, complexity, and adversarial nature of court proceedings, which can deter individuals especially women and those from marginalized communities from seeking justice (Crook, 2012; Amoasi, 2021). ADR offers a more collaborative

and conciliatory approach, often centered around principles of reconciliation and social harmony, making it especially suitable for intimate partner disputes (Kruger, 2023).

However, the effectiveness of CCADR in resolving intimate partner conflicts remains underexplored. Research indicates that while ADR may provide a culturally appropriate and less intimidating environment for dispute resolution, it may also risk reinforcing existing power imbalances, particularly in cases involving gendered dynamics or economic dependency (Davidheiser, 2005; Basu, 2012). The potential for informal processes to perpetuate patriarchal norms and limit women's agency in negotiations is a growing concern. Additionally, the enforcement of ADR agreements remains a challenge, as highlighted by Boege (2006), who points to the lack of formal oversight and legal enforceability of many outcomes.

This study is crucial in addressing these gaps by providing a nuanced understanding of the strengths and limitations of CCADR in Ghana. By examining the lived experiences of individuals engaging with these mechanisms, this research will contribute to the broader discourse on the role of ADR in intimate partner disputes. It will also offer insights into how CCADR can be improved to ensure fairness, protect vulnerable parties, and enhance the overall efficacy of dispute resolution in Ghana's legal framework.

1.6 Significance of the study

This study is significant for several reasons, contributing to both academic discourse and practical applications in the field of dispute resolution in Ghana and beyond.

First, it provides a critical examination of Court-Connected Alternative Dispute Resolution (CCADR) mechanisms in resolving intimate partner disputes. By focusing on this under-

researched area, the study sheds light on the specific ways in which CCADR is employed to address conflicts that are often highly sensitive and deeply personal, such as those related to family, marriage, and intimate relationships. This research will help to fill a gap in the literature on the use of ADR in intimate partner disputes, where existing studies tend to focus more broadly on commercial or property-related conflicts (Fiadjoe, 2013).

Second, the study's focus on the lived experiences of individuals using CCADR offers valuable insights into the practical benefits and challenges of ADR mechanisms in the context of Ghanaian society. By highlighting both positive outcomes and limitations, the research can inform policy makers, practitioners, and the judiciary on how to improve CCADR processes, ensuring they are fairer and more effective for all parties involved. This aligns with calls by scholars like Bowman, (2019) to refine CCADR mechanisms to better address gender disparities and power dynamics in intimate relationships.

Third, the study contributes to the global discourse on the role of CCADR in family law, particularly in African contexts. As countries around the world increasingly adopt CCADR mechanisms to alleviate the burden on formal courts, this research offers a unique perspective from Ghana, emphasizing the cultural and social dimensions of dispute resolution. This can serve as a model for other African nations and inform comparative studies on the role of CCADR in intimate partner disputes.

Finally, this study has practical implications for access to justice in Ghana. It can help strengthen the integration of CCADR within the judicial system, making justice more accessible, particularly to marginalized groups who may find the formal court process intimidating or unaffordable. By enhancing understanding of CCADR's effectiveness in intimate disputes, the research can

contribute to broader efforts to make dispute resolution more inclusive, responsive, and culturally sensitive.

1.7 Definition of key Concepts.

The concepts requiring definition in this study are i) alternative dispute resolution ii) disputants, iii) dispute and iv) intimate partner relationship. It is important to define and conceptualize these terms to guide both the researcher and reviewers to enhance the overall coherence of the study.

1.7.1 *Alternative Dispute Resolution (ADR)*

Alternative Dispute Resolution (ADR) encompasses all methods for resolving disputes outside traditional courtroom proceedings, including mediation, arbitration, negotiation, and conciliation (Price, 2018). In Ghana, the Alternative Dispute Resolution Act of 2010 (Act 798) defines ADR in Section 135 as a collective term for resolving disputes through means other than the conventional trial process. This definition is particularly relevant to this study due to the Act's applicability in the Ghanaian context.

1.7.2. *Disputants*

In the formal civil justice system, the disputing parties are referred to as the Plaintiff or Petitioner and the Respondent. In the criminal justice system, they are designated as the Accused and the Defendant. This terminology arises from the clear procedural distinctions between civil and criminal matters that are often absent in traditional and informal justice systems. In the context of divorce proceedings, the parties are specifically termed Petitioner and Respondent. Since this thesis focuses on intimate partners who utilize Court-Connected Alternative Dispute Resolution (CCADR) for resolving disputes, the terms Petitioner and Respondent will be used to refer to the disputants throughout the discussion.

1.7.3 Dispute

Lempert (1982) defines disputes as controversies involving two or more parties each claiming entitlement. Kritzer (1981) characterizes a dispute as a social relationship formed when a party's grievance is rejected after making a claim. The term "dispute" is sometimes used interchangeably with "conflict," which, according to the Oxford Advanced Dictionary, refers to serious disagreements or arguments arising from incompatible opinions, rules, or norms (Collins, 1975). Scholars, such as Burton (1990), highlight that unresolved conflicts can escalate into violence, potentially reaching international levels.

In contrast, a dispute is described as an assertion of opposing views, often leading to formal proceedings for resolution (Amer, 2006). Fenn, Lowe & Speck (1997) notes that a dispute only arises when one party asserts a claim and the other disputes it, with resolution typically involving mechanisms like negotiation or mediation (Garth et al., 1978). Despite conceptual differences, both terms are considered amenable to Alternative Dispute Resolution (ADR) and will be used interchangeably in this thesis.

1.7.4 Intimate Partner Relationship

According to Brehm (1992), intimacy refers to a close personal relationship in which two individuals are mutually dependent and engaged in joint actions, characterized by emotional, physical, and often sexual intimacy. The term encompasses romantic or sexual partners who share a significant emotional connection and are involved in various forms of mutual support, companionship, and shared life experiences (Querk Anderson et al., 2022).

For the purposes of this thesis, individuals are considered intimate partners under the following circumstances:

1. They have experienced a close or romantic relationship in the recent past or present that has lasted for at least five years.

2. They are mutually dependent and engaged in joint actions.

This definition includes romantic partners in a developing relationship, dissatisfied spouses seeking marital counseling, disgruntled spouses involved in divorce mediation, and cohabiting partners who live together and share a domestic life similar to marriage. Parties who meet these criteria whether they are romantic partners in developing relationships, dissatisfied spouses in marital conflict, or separated spouses undergoing divorce are regarded as intimate partners.

1.8 Organizational Structure of the Study

The thesis is structured into eight chapters. Chapter One introduces the study, outlining the problem statement, research objectives, significance, and organizational structure of the thesis.

Chapter Two offers a literature review and theoretical framework. It examines existing research related to the topic. It identifies gaps that the current study aims to address and discusses the theory of legal consciousness, as the theoretical foundation for the research.

Chapter Three focuses on the legal framework governing court-connected ADR operations in Ghana. Chapter Four details the research design and methodology, including the research approach, data collection methods, participant recruitment, data analysis procedures, and ethical considerations. Chapters Five and Six present the study's findings, organized by themes. NVivo software was used to facilitate the thematic analysis and interpretation of the data, with discussions rooted in the theory of legal consciousness. The use of NVivo allowed for a systematic coding process, enabling the identification and exploration of key themes that emerged from the data.

Chapter Seven interprets the findings in relation to the objectives, comparing them with existing literature.

Chapter Eight summarizes the key findings, contributions, limitations and recommendations for future research and practice.



CHAPTER TWO

LITERATURE REVIEW AND THEORITICAL FRAMEWORK

2.1 Introduction

This chapter reviews the literature on alternative dispute resolution (ADR). It begins by looking at the historical foundations of ADR globally and proceeds to conflict resolution practices in Africa; motivations behind intimate partners use of ADR; the challenges in applying ADR in intimate partner relationships and an examination of the concept of limited legal agency. It concludes with an examination of the theoretical framework guiding the study. While conflict can play a functional role in societies (Coser, 1967), it also has the potential to escalate into destructive outcomes (Burton, 1990).

2.2. Sociological Foundations of Alternative Dispute Resolution in Western and Non-Western Cultures"

"Two men glare at each other. Long haired and bearded, their fur garments oily from use. They hold gnarled clubs loosely at their sides. Emotions have been building since the rainy season started and the river overflowed. Who will be forced to brave the swollen river to hunt and who will hunt near the village? Today it will be decided. With war cries, the disputants raise their clubs and begin to circle. Suddenly an old man appears, shouting: 'Behold, the deciding stone! The two men stop in midstride. The old man says 'Ush' the smooth side is yours; 'Ore' the rough side is yours'. The pair hesitate, looking angrily at each other and at the old man, and finally they nod in agreement. With all his might, the old man throws the stone into the air. Their heads turn to the sky as they watch the stone over and over" (Barrett & Barrett, 2004: p 1).

This imagined story of prehistoric times shows clearly that while humans have always had the tendency to resolve their disagreements with violent fight, they have also recognized the importance of settling issues peacefully by flipping a coin or some other way. This search for alternative to violence gave birth to the precursor of alternative dispute resolution in the legal system (Barret & Barret, 2004).

Anthropological studies have long recognized the significance of alternative dispute resolution (ADR) in various societies. Evans-Pritchard (1940) and Fortes (1953; 1955) laid the groundwork for understanding how conflicts are managed and resolved in non-state societies. Ethnographic research by Chagnon (1968), Nader & Metzger (1963) and Dentan (1968) have demonstrated that local conflict management strategies, initially developed in small-scale societies, have influenced modern approaches to ADR (Gluckman, 1940; Nader, 1997).

For instance, the !Kung San of the Kalahari Desert utilized informal mechanisms such as gossip, verbal confrontations, and mediation by respected elders to resolve disputes (Lee, 1979; Merry, 1984). These practices, which predate formal legal systems, underscore the historical preference for peaceful resolution over violent or punitive measures. Traditional ADR methods, including negotiation, mediation, and customary arbitration, were common in tribal societies before the advent of formal courts (Crook, 2012; Boateng & Darkwah, 2021).

As modern societies continue to evolve, the persistent influence of these ancient practices highlights their relevance and effectiveness in maintaining social harmony. The integration of ADR methods into contemporary legal systems has enhanced cultural sensitivity and improved conflict resolution outcomes (Braithwaite, 2002).

2.3 Conflict Resolution Practices among Various Ethnic Groups in Africa: A Comparative Analysis.

African communities have long upheld mechanisms for conflict resolution that emphasize truth, reconciliation, and community involvement (Uwazie, 2011). These traditional indigenous practices contrast sharply with the adversarial and retributive processes introduced by post-colonial state systems. This section highlights the wisdom embedded in African conflict resolution mechanisms and the nuances that distinguish them from Western legal traditions.

2.3.1 Traditional African Conflict Resolution Mechanisms

Traditional conflict resolution mechanisms in African societies represent a vital form of social capital, deeply ingrained in the social norms and customs that bind communities together. These mechanisms play a crucial role in defining and guiding interactions within the community, fostering collective action that leads to mutually beneficial outcomes (Fred-Mensah, 2010). In these societies, conflict resolution was inherently communal, rooted in the principles of Ubuntu, which emphasize interdependence and collective responsibility (Van Ness & Strong, 2002).

The social fabric of these communities was woven with the threads of truth and reconciliation, requiring the active participation of all members in open discussions (Uwazie, 2011). This inclusive approach empowered ordinary people to address disputes and crimes without the need for intervention from distant, centralized authorities. Conflict resolution was viewed as a healing process, with all stakeholders contributing positive energy to restore balance within individuals, families, and communities, thereby rebuilding social harmony. Reconciliation often involved symbolic gestures and rituals, such as the exchange of gifts and the slaughter of animals like chickens, goats, sheep, or cows (Osei-Hwedie & Rankopo, 2012).

According to Appiah-Thompson, (2020) traditional societies employed a combination of internal and external social controls to resolve conflicts. Internal controls relied on deterrence mechanisms, such as personal shame and fear of supernatural powers, while external controls involved community-imposed sanctions based on accepted or disapproved behaviors.

African traditional conflict resolution practices were characterized by extensive community involvement and mediation by respected elders. These mediators, chosen for their integrity and experience, employed various techniques to facilitate compromise, including the use of proverbs, persuasion, and subtle forms of social pressure (Crook, 2012; Price, 2018). Anthropological studies have shown that informal mechanisms like gossip, ostracism, and economic interdependence continue to play crucial roles in maintaining social order in small-scale societies (Merry, 1984). The ultimate goal was to restore social harmony, ensuring that both parties accepted some responsibility, thereby fostering long-term reconciliation.

In conclusion, the conflict resolution practices among various African ethnic groups highlight the enduring value of traditional mechanisms that prioritize truth, reconciliation, and community involvement. While modern state systems have introduced adversarial and retributive processes, these often prove less effective in addressing the root causes of conflicts and maintaining social harmony. Understanding and integrating traditional practices into contemporary legal frameworks could enhance the effectiveness and cultural sensitivity of conflict resolution methods, leading to a more holistic approach to justice in African societies.

2.3.2 The Case of Ghana

Ghana's legal system, much like those of South Africa, Kenya, Uganda, and Nigeria, was inherited from British colonial powers. Before the arrival of the colonialists, Ghanaians had their own methods for handling crime and conflicts within their communities (Sarbah, 1897; Danquah,

2014). These indigenous approaches were deeply rooted in the various ethnic cultures that characterized the region. As Appiah-Thompson (2020) notes, these methods were determined by the unique cultural practices of different ethnic groups.

Prior to colonialism, the *Kima* system was the predominant method of dispute resolution in many Ghanaian societies although it was referred to differently by the various ethnic groups (Sarbah, 1897). This system involved community members reporting conflicts to their clan leader, sub-section leader, or chief. The leaders, having summoned the parties involved, would listen to each side of the story before making a decision. Importantly, the Kima's decision aimed to unite the disputants rather than deepen enmity. The resolution process often required the offender to pay compensation and ask for forgiveness. Once this was done, the parties would symbolically eat from the same bowl or, where necessary, dance together, signifying total forgiveness and the restoration of unity (Gekye, 1995). The cultural significance of sharing a meal or drink during conflict resolution is a common feature across many African societies, demonstrating a deep-seated desire for a happy ending and the restoration of communal relations (Sarbah, 1897; Omale, 2006; Appiah-Thompson, 2020). This emphasis on reconciliation and unity contrasts sharply with the adversarial nature of formal legal proceedings.

Gyekye's (1995) work focuses on the philosophical underpinnings of African societies, particularly the Akan people of Ghana. He explores the moral, ethical, and metaphysical principles that guide social interactions and how these principles influence traditional systems of governance and dispute resolution. Gyekye emphasizes the role of communalism, where disputes are often seen as issues affecting the community rather than just individuals. Within this system, the elders and chiefs play a significant role in mediating and resolving disputes, ensuring that harmony and

social order are maintained. Gyekye's analysis reflects how traditional dispute resolution is deeply rooted in maintaining social balance and justice rather than punitive measures.

Traditionally, Ghanaians have shown a cultural preference for resolving disputes through informal channels rather than resorting to formal courts, especially in cases involving the state (Sarbah, 1897). This cultural disposition was evident in the positive response to the National Reconciliation Commission (NRC) established in 2004. The NRC was tasked with reconciling the people of Ghana by uncovering the truth about past human rights abuses. Unlike traditional court proceedings, the NRC's approach was designed to facilitate healing and reconciliation, addressing crimes committed under the Rawlings military junta and beyond in a manner that formal court processes could not achieve (Attafuah, 2004; Appiah-Thompson, 2020).

According to Ameh, (2006) the NRC in Ghana was inspired by similar efforts, such as South Africa's Truth and Reconciliation Commission and Rwanda's Gacaca courts. Although the NRC was not a panacea for all issues, it was widely considered more effective than adversarial criminal prosecutions. Commissions like the NRC, despite differences in their names and specific procedures, share a common goal: uncovering the truth, healing the wounds of human rights violations, and building a stronger nation (Danquah, 2014).

One could argue then that while the efforts to bring peace to different countries may go by different names, their aim remains consistent: to uncover the truth, heal the effects of human rights violations, and ultimately build a better nation for both individuals and the community as a whole. Ameh, (2006) contends that reconciliation, healing, and holding offenders accountable are better options for Ghanaians than other approaches, noting that while the NRC could not solve all problems, it was a more suitable option compared to adversarial criminal prosecutions.

Ghana's embrace of non-adversarial dispute resolution methods, deeply rooted in its cultural heritage, reflects a profound understanding of conflict as both a social and emotional process. The Kima system and the more recent NRC illustrate Ghana's preference for healing and reconciliation over punitive measures (Ameh, 2006). These approaches not only resolve conflicts but also strengthen communal bonds and promote long-term peace.

As Ghana continues to navigate its post-colonial legal landscape, the integration of traditional dispute resolution methods with modern Alternative Dispute Resolution (ADR) techniques offers a promising path towards a more harmonious society. This shift from adversarial litigation to more collaborative and restorative forms of justice align with a broader global trend that emphasizes the importance of maintaining relationships and fostering community well-being. By blending traditional and modern practices, Ghana is not only preserving its cultural heritage but also adapting to contemporary needs, creating a legal framework that is both effective and culturally resonant.

2.3.3 Navigating Matrimonial Conflict in Post-Colonial Africa.

In post-colonial Africa, the resolution of matrimonial conflicts, including domestic violence, is shaped by a complex interplay between traditional practices and state-imposed legal frameworks inherited from colonial powers. The colonial legacy introduced formal legal systems modeled on Western jurisprudence, but many African communities have continued to rely on customary practices, particularly in resolving family and matrimonial disputes (Parpart, 1988; Kameri-Mbote, 2002; Merry, 1990; Boege, 2006).

Traditional African approaches to matrimonial conflict are deeply rooted in the cultural emphasis on reconciliation and the preservation of family unity. Disputes, including those involving domestic violence, are often addressed within the family or community through informal

mechanisms such as mediation by elders, chiefs, or other respected community members. This approach is grounded in the belief that the family is the cornerstone of society, and maintaining harmony within it is essential for social stability (Boege, 2006). In these contexts, domestic violence is frequently perceived as a private matter rather than a criminal issue. There is a strong cultural preference for resolving such conflicts without involving formal legal processes. Women who experience domestic violence may be encouraged to reconcile with their husbands rather than pursue legal action, reflecting societal norms that prioritize preserving marriage and avoiding public shame or family disintegration (Parpart, 1988).

However, the post-colonial legal systems in African countries, influenced by Western models, often clash with these traditional practices. State-centric, adversarial justice systems prioritize punitive measures and formal legal intervention, particularly in cases of domestic violence. These systems are designed to protect individual rights, including the rights of women, and to hold perpetrators accountable through criminal prosecution (Merry, 1990). While these legal frameworks are intended to provide better protection for women, their effectiveness is often undermined by various challenges. The formal legal system can be alienating and inaccessible, particularly for women in rural areas, leading them to favor community-based resolutions (Kameri-Mbote, 2002).

The tension between traditional and formal legal systems reflects the broader challenges faced by post-colonial African states in integrating customary practices with modern legal frameworks. The formal legal system may offer better protection for women's rights, but it often fails to gain the trust and participation of those it aims to protect. Consequently, many cases of domestic violence remain underreported and unresolved within the formal legal framework, with communities

continuing to rely on customary methods that prioritize reconciliation over retribution (Boege, 2006).

This dual system of justice underscores the complexities of addressing matrimonial conflicts in post-colonial Africa. On one hand, there is a pressing need to protect individual rights and ensure justice for victims of domestic violence. On the other hand, there is a deep-rooted cultural imperative to maintain social cohesion and family unity, which often leads to a preference for non-adversarial methods of conflict resolution. Policymakers and practitioners working in the field of family law and conflict resolution in Africa face the significant challenge of balancing these competing priorities. Addressing this challenge requires a nuanced approach that acknowledges the value of both traditional and formal systems, potentially leading to more culturally sensitive and effective solutions in the resolution of matrimonial conflicts (Parpart, 1988; Merry, 2006; Kameri-Mbote, 2002; Boege, 2006).

2.4 Modern Trends in Family and Intimate Partner Dispute Resolution: Embracing Collaborative Law and Mediation.

Globally, there has been a notable shift in family dispute resolution methods, with judicial systems increasingly adopting non-adversarial mechanisms to avoid the traditional adversarial adjudication of family cases (Singer, 2018). This trend reflects a broader understanding that family disputes are not merely legal issues but are deeply embedded in social and emotional processes. As such, resolving these disputes through collaborative and therapeutic approaches is seen as more beneficial for all parties involved (Emery, 2011).

For sometime now, litigation has been the primary method for resolving family disputes. However, this approach often exacerbates conflict, is time-consuming, and places a significant emotional and

financial burden on the parties involved (Guthrie, 2017). In response, many countries have (ADR) methods such as mediation and collaborative law, which offer more amicable, efficient, and less adversarial alternatives to traditional litigation (Folberg et al., 2014).

The shift towards ADR in family law is driven by several factors. One key factor is the recognition that family disputes are ongoing social and emotional processes, rather than isolated legal events (Brehm, 1992). This understanding has led to a reformulation of the goals of legal intervention in family disputes, moving towards therapeutic jurisprudence. This perspective emphasizes the need for legal processes that not only resolve disputes but also improve the psychological and material well-being of the individuals and families involved (Cahn, 1992; Singer, 2018).

As a result, ADR processes have gained prominence because they empower parties to resolve their conflicts in a manner that is less confrontational and more conducive to preserving relationships. This is particularly important in cases involving children, where maintaining a cooperative relationship between the parties is crucial for the well-being of the children (Emery & Dinescu, 2019). Research shows that participants in ADR processes report lower levels of stress and higher satisfaction with the outcomes compared to those who undergo litigation (Guthrie, 2017).

The global shift towards ADR has also reflected in Ghana's legal framework. Prior to the enactment of the ADR Act, 2010 (Act 798), various laws in Ghana already provided for mediation and other non-litigious methods of dispute resolution (Crook, 2012; Fiadjoe, 2013). These legislative efforts aimed to promote reconciliation and collaboration over adversarial procedures, particularly in family disputes. This movement away from litigation has extended beyond divorce-related custody disputes to broader areas such as state-initiated child welfare proceedings, where family group conferencing and other problem-solving approaches are increasingly being used (Singer, 2018).

The growing dissatisfaction with traditional litigation has also contributed to the shift towards ADR. Litigation is often perceived as adversarial, expensive, and rigid, which can escalate conflicts rather than resolve them (Menkel-Meadow, 1995). In contrast, ADR offers a more flexible and collaborative approach, allowing parties to actively participate in crafting solutions that are tailored to their specific needs and circumstances (Ojelabi, 2019).

Overall, the global embrace of ADR in family law signifies a significant evolution in the justice system. By prioritizing healing, cooperation, and the preservation of relationships, ADR methods offer a more compassionate and effective path to resolving family disputes.

2.5 The Evolution of Alternative Dispute Resolution in Ghana

Alternative Dispute Resolution (ADR) has become a cornerstone of Ghana's justice system, thanks in large part to the pioneering efforts of Professor Uwaize, affectionately known as the "Father of ADR in Africa." His leadership was instrumental in introducing ADR to Ghana. In 1996, Professor Uwaize led a delegation of 12 legal professionals from Nigeria, Senegal, and Ghana to the United States for specialized ADR training. Among the Ghanaian representatives were notable figures such as former Chief Justice Georgina Theodora Wood, Mr. Nene Amegatcher of the Ghana Bar Association, and Professor Henrietta Mensa-Bonsu, who now serves as a Justice of the Supreme Court of Ghana. The delegation was tasked with promoting ADR in Ghana and training others to support its adoption. With the backing of former Chief Justices Kwame Wiredu and George Kingsley Acquah, policies were developed to advance ADR in the country (Amoasi, 2021).

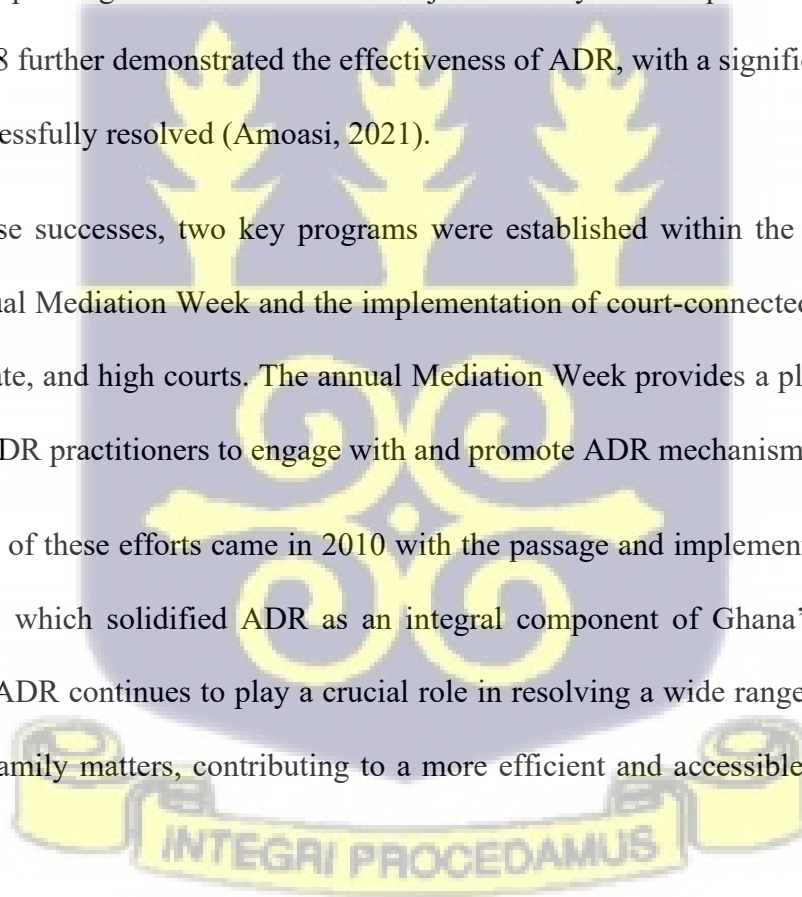
Following the initial training, an additional group of ten legal practitioners was trained to further support the establishment of Ghana's ADR framework. This led to the launch of a pilot phase that leveraged the expertise of these practitioners to assess the viability and effectiveness of ADR in

resolving conflicts within the country. The Judicial Service soon recognized the potential of ADR to address institutional challenges and improve justice delivery, leading to its incorporation into Ghana's mainstream legal system (Crook, 2012; Amoasi, 2021).

Recognizing the need for judicial reforms, particularly to meet the demands of the business sector, the Ghanaian government, in collaboration with the World Bank, commissioned a team to identify deficiencies in the judicial system. The team recommended integrating ADR into the justice system, which resulted in the formation of a task force in 1998 to pilot the ADR program and draft legislation for its formal implementation. The initial trial in Accra in 2003 yielded promising results, with 300 pending court cases resolved in just five days. Subsequent follow-up programs in 2007 and 2008 further demonstrated the effectiveness of ADR, with a significant percentage of cases being successfully resolved (Amoasi, 2021).

Building on these successes, two key programs were established within the mainstream court system: the annual Mediation Week and the implementation of court-connected ADR services in district, magistrate, and high courts. The annual Mediation Week provides a platform for judges, attorneys, and ADR practitioners to engage with and promote ADR mechanisms.

The culmination of these efforts came in 2010 with the passage and implementation of the ADR Act 798 (2010), which solidified ADR as an integral component of Ghana's justice delivery system. Today, ADR continues to play a crucial role in resolving a wide range of disputes, from commercial to family matters, contributing to a more efficient and accessible justice system in Ghana.



2.6 Methods Involved in Court-Connected Alternative Dispute Resolution in Ghana

This section explores and analyzes the processes involved in court-connected alternative dispute resolution mechanisms in Ghana, shedding light on their efficacy, challenges, and potential for enhancing access to justice. These processes primarily include mediation, arbitration, and negotiation, all aimed at facilitating timely and cost-effective resolution of disputes (Sarkodie, 2011).

2.6.1 Mediation Process in Ghanaian Courts

Mediation is the most widely utilized method in Ghana's court-connected ADR system. It involves a neutral third party, the mediator, who facilitates discussions between disputing parties to help them reach a mutually acceptable resolution. The mediator does not impose a decision but instead guides the parties toward a settlement by fostering communication, identifying underlying interests, and suggesting possible solutions. Mediation is particularly valued for its flexibility, confidentiality, and its ability to preserve relationships (Swaniker, 2019).

In Ghana, court-connected mediation typically takes place within court-annexed mediation programs. The process begins with selecting a qualified mediator, often accredited by the Judicial Service of Ghana. The mediator conducts pre-mediation sessions to explain the process, establish ground rules, and encourage parties to consider settlement options. During the mediation sessions, the mediator uses various techniques to facilitate dialogue, enhance understanding, and assist the parties in finding creative solutions. If the mediation is successful, the agreement reached is formalized and submitted to the court for endorsement, making it legally binding (Crook, 2012).

2.6.2 Arbitration as an Alternative Dispute Resolution Mechanism

Arbitration, another prevalent form of ADR in Ghana, offers parties a more structured process for resolving disputes outside the court system. Unlike mediation, arbitration involves the appointment of an impartial arbitrator or panel to adjudicate the dispute and render a binding decision. In Ghana, arbitration proceedings are governed by the Alternative Dispute Resolution Act, which provides a legal framework for the enforcement of arbitral awards (Crook, 2012).

The arbitration process in Ghana typically commences with the submission of a dispute to arbitration, either voluntarily or pursuant to a contractual agreement. Parties have the flexibility to select their arbitrator or opt for institutional arbitration administered by bodies such as the Ghana Arbitration Centre. The arbitration hearing affords parties an opportunity to present evidence, examine witnesses, and make legal submissions in a less formal setting compared to traditional litigation. Once the arbitrator issues a final award, it can be enforced by the courts, providing parties with a swift and final resolution to their dispute (Crook, 2012; Sarkodie, 2011).

2.6.3 Negotiation

Negotiation is an informal method where the parties involved in a dispute directly engage in discussions to resolve their differences without the involvement of third parties. In the context of court-connected ADR, negotiation is encouraged before or during the litigation process to allow parties the opportunity to settle disputes independently. When successful, negotiation can result in a more satisfactory and expedient resolution for both parties (Crook, 2012; Amoasi, 2021).

2.6.4. Conciliation

Conciliation is a process similar to mediation but with some distinctions. In conciliation, the conciliator plays a more active role in advising the parties and suggesting possible solutions. The

conciliator works to reduce tensions, improve communication, and help the parties reach an agreement. This method is often used in labor disputes and other contexts where a more hands-on approach is beneficial (Crook, 2012).

2.6.5 Customary Arbitration

Customary arbitration, rooted in traditional dispute resolution practices, is recognized in Ghana's court-connected ADR framework. This method involves the resolution of disputes according to customary laws and practices, typically presided over by traditional authorities such as chiefs or elders. Customary arbitration is especially prevalent in rural areas and in cases involving land disputes, family matters, and other issues where traditional norms play a significant role (Fiadjoe, 2013; Amoasi, 2021).

Ghana's Court-Connected ADR methods offer diverse and culturally appropriate avenues for resolving disputes. These methods are designed to be complementary to the formal judicial process, providing parties with more accessible, efficient, and amicable means of conflict resolution. By incorporating both modern and traditional approaches, Ghana's ADR system reflects the country's legal pluralism and commitment to delivering justice in a manner that resonates with its socio-cultural context.

2.7 Challenges in Court-Connected ADR in Ghana

One of the primary challenge was the limited awareness and understanding of ADR processes among the general populace. Many Ghanaians were either unaware of these alternatives or hold misconceptions about their effectiveness. This lack of awareness often led to underutilization of ADR methods and skepticism about their legitimacy (Crook, 2012). The perception that formal

litigation was the only viable means of resolving disputes persisted, particularly in areas where traditional courts have long been the norm (Osei-Hwedie & Rankopo, 2012; Muller & Nell, 2012).

In addition to awareness issues, there were institutional and infrastructural constraints that affected the efficiency and accessibility of ADR services. Inadequate funding was a significant barrier, limiting the resources available for public education campaigns, training programs, and the general operational capacity of ADR centers. These financial constraints resulted in inconsistent service delivery and reduced trust in the ADR system (Muller & Nell, 2012).

Furthermore, cultural barriers posed another challenge to the effective implementation of ADR in Ghana. While ADR methods, such as mediation and arbitration, aligned with many traditional African conflict resolution practices, there were still cultural perceptions that discouraged their use in certain contexts. For example, in some communities, disputing parties preferred not to involve elders or other respected figures rather than engage with formal ADR processes (Crook, 2012). Additionally, there was a reluctance to engage in ADR due to concerns about confidentiality or the perceived stigma of bringing a dispute into a semi-formal setting (Amoasi, 2021).

Another challenge was the insufficient capacity and professionalism among mediators, arbitrators, and other ADR practitioners. The quality of ADR services was highly dependent on the skills and training of the individuals facilitating the process. In Ghana, there was the need for more comprehensive and standardized training programs to ensure that ADR practitioners were adequately equipped to handle a wide range of disputes effectively (Fiadjoe, 2013).

2.7.1 Opportunities to Enhance Court-Connected ADR in Ghana

Despite these challenges, there were significant opportunities to enhance the effectiveness of court-connected ADR in Ghana. One critical area for improvement identified awareness. By investing

in robust public education campaigns, the government and judiciary can demystify ADR processes and promote their acceptance within the broader society. These campaigns could focus on the benefits of ADR, such as cost-effectiveness, timeliness, and the preservation of relationships, particularly in family and community disputes (Fiadjoe, 2013).

Another opportunity lied in strengthening the training and capacity-building programs for mediators, arbitrators, and judicial officers. Developing more comprehensive and standardized training curricula could enhance the professionalism and effectiveness of ADR practitioners. Additionally, ongoing professional development and certification programs could ensure that mediators and arbitrators remained up-to-date with best practices and legal developments (Sitsofe Morhe, 2021).

Investing in the institutional capacity of ADR centers is also crucial. This could involve increasing funding for ADR services, improving infrastructure, and expanding access to ADR in rural and underserved areas. By addressing these institutional challenges, Ghana could ensure that ADR mechanisms are more widely available and accessible to all citizens, regardless of their location or socioeconomic status (Crook, 2012).

Furthermore, there was an opportunity to integrate traditional dispute resolution mechanisms with formal ADR processes more effectively. By recognizing and incorporating the role of community elders and other respected figures within the ADR framework, the judiciary could create a more culturally sensitive approach that resonates with local communities (Boateng & Darkwah, 2021). This integration could help bridge the gap between formal legal systems and traditional practices, making ADR more relevant and acceptable across diverse cultural contexts.

Finally, leveraging technology could also play a significant role in enhancing the accessibility and efficiency of ADR in Ghana. The use of online dispute resolution (ODR) platforms, particularly in the wake of the COVID-19 pandemic, has demonstrated the potential for technology to facilitate ADR processes. By developing and implementing ODR systems, Ghana can make ADR more accessible, particularly in remote areas where physical access to courts or ADR centers may be limited (Guthrie, 2017).

Court-Connected ADR in Ghana, while promising, faces several challenges that require strategic intervention. Addressing issues such as public awareness, institutional capacity, and cultural barriers is crucial for the effective implementation of ADR mechanisms. However, by seizing opportunities such as enhancing public education, improving training programs, integrating traditional practices, and leveraging technology, Ghana can strengthen its ADR framework and ensure that it serves as a viable and effective alternative to traditional litigation.

2.8 Understanding the Appeal: Intimate Partners and the Shift to Alternative Dispute Resolution

The rapid growth of Alternative Dispute Resolution (ADR) for divorce disputes is closely tied to the significant rise in divorce rates that began in the late 1960s in the United States and subsequently spread to other English-speaking and industrialized countries. According to Emery et al. (2005), while the divorce rate in the U.S. has stabilized and slightly declined since the early 1980s, it remains notably high. Current projections indicate that over 40% of first marriages in the United States will end in divorce, with an even higher percentage between 60% to 70% of remarriages likely to dissolve (U.S. Bureau of the Census, 1992). Despite some decline, the United States continues to lead globally in divorce rates, although significant divorce rates are also

observed in other regions (Cherlin, 2017). Additionally, demographic changes, such as increased non-marital childbearing and cohabitation, contribute to the perception of a declining divorce rate. Without these factors, the rate of marital dissolution would likely remain elevated (Emery et al., 2005).

In Ghana, the situation reflects similar trends, albeit within a different social and cultural context. According to data from Ghana's 2021 Population and Housing Census (PHC), 553,065 individuals have experienced divorce, and an additional 405,090 have undergone separation. Of those who have experienced divorce, a significant majority (65.5%) were women, totaling 362,233, compared to 190,832 men (34.5%). Similarly, in cases of separation, 252,079 women and 153,011 men were recorded (Ghana Statistical Service, 2021).

While some divorces are amicable and can even be beneficial, many are marked by conflict. A comprehensive survey conducted in two California counties revealed that 25% of divorces involved substantial or intense conflict. Additionally, 24% of these cases required intervention by a professional other than the parties' lawyers, such as a mediator, evaluator, or judge, to reach a settlement (Maccoby & Mnookin, 1992). Although there is limited reliable data on the frequency and intensity of post-divorce disputes, particularly among previously amicable parents or never-married parents, anecdotal evidence suggests that these disputes are common, especially as circumstances evolve, such as remarriage or relocation.

The rise in divorce rates, coupled with high levels of conflict and the associated costs in time and money for both courts and individuals, underscores the importance of promoting mediation and other ADR methods. From the perspective of family-friendly intervention programs, a critical concern is the impact of divorce, parental conflict, and adversarial settlement procedures on children and post-separation family dynamics. Some of the reasons behind ADR usage are:

preservation of relationship, privacy and confidentiality, cost effectiveness, balancing authority, therapeutic justice etc.

2.8.1 Preservation of Relationship

Intimate partners often choose (ADR) methods to preserve their relationships while resolving disputes. ADR creates an environment conducive to constructive dialogue and mutual understanding, which fosters communication and helps maintain relationships (Menkel-Meadow, 2012). Research by Ruvolo & Veroff, (1997) identified three main strategies couples use to handle conflicts: constructive engagement, destructive engagement, and avoidance. Constructive engagement involves positive conflict resolution methods, like compromise and negotiation, aligning closely with ADR principles. ADR encourages open communication and problem-solving, helping couples find mutually beneficial solutions that strengthen their relationships.

Conversely, destructive engagement, characterized by aggression and coercion, mirrors the adversarial nature of traditional litigation. ADR seeks to reduce these negative behaviors by promoting a more cooperative environment, thus protecting the relationship from further harm. Finally, avoidance involves ignoring conflicts, which can lead to unresolved tensions. ADR counters this by encouraging active participation and direct communication, ensuring issues are addressed and resolved rather than left to fester (Applegate & Beck, 2013). In summary, ADR methods support healthier relationships by fostering constructive engagement, minimizing destructive behaviors, and addressing conflicts proactively.

2.8.2 Privacy and Confidentiality

ADR offers intimate partners the opportunity to maintain privacy and confidentiality throughout the dispute resolution process (Sourdin, 2013). Unlike litigation, which often involves public court

proceedings, ADR sessions are confidential, allowing parties to address sensitive issues without fear of public exposure (Schmitz, 2019). This privacy is especially important for couples because it allows them to discuss sensitive personal matters without the risk of public exposure. Couples are often dealing with intimate and potentially embarrassing issues, and the assurance that their discussions will remain private can make them more willing to participate openly and honestly in the resolution process (Sourdin, 2013).

Confidentiality in ADR means that the details of the dispute and any disclosures made during the resolution process are not disclosed to outside parties. This is crucial for maintaining trust between partners. Knowing that their conversations are confidential, couples can feel more secure in sharing their true feelings and concerns, which is essential for effective problem-solving and reaching a mutual agreement (Schmitz, 2019). A study by Abedi et al., (2024) identified some elements to measure trust in the ADR resolution process. They include knowledge, expectations of fairness and code of ethics to enhance the confidence in the process.

ADR thus address common concerns about public exposure and the potential impact on users' personal lives. Privacy and confidentiality encourage a more open dialogue and reduce the fear of judgment or repercussions outside the relationship, making ADR a more attractive and viable option for resolving disputes.

2.8.3 Cost-Effectiveness

Research comparing the cost of mediation and litigation highlights varying outcomes, though many studies suggest that mediation can be significantly more cost-effective than traditional litigation. One of the primary reason mediations tend to be less expensive is that it typically requires fewer formal legal processes, resulting in lower legal fees, court costs, and less time spent in protracted legal battles (Folberg et al., 2021). Unlike litigation, where multiple court

appearances, discovery processes, and lengthy trials can lead to substantial financial outlays, mediation focuses on a streamlined, cooperative approach to resolving disputes, which often translates into lower overall costs for the parties involved.

For example, a Canadian study demonstrated the significant financial savings of mediation, finding that it reduced the cost of disputes by approximately \$3,500 per case when compared to litigation. More impressively, 45% of the cases saved over \$10,000 through mediation. This highlights not only the financial savings but also the efficiency of the process. The study also noted that mediation typically required fewer sessions to reach an agreement, with 97% of the 3,068 cases in the study being resolved after just one session (Lundy et al., 2022). This efficiency further underscores the cost-effectiveness of mediation, as fewer sessions and shorter timelines directly contribute to lower legal fees and reduced time commitments from both parties and their legal representatives.

Moreover, in situations where mediation resolves disputes quickly, parties avoid the indirect costs associated with litigation, such as lost wages, business disruptions, emotional stress, and prolonged uncertainty. While the cost savings of mediation may vary based on the complexity of the dispute and the jurisdiction, the overall trend indicates that mediation can offer a more affordable and efficient route to conflict resolution compared to the high financial and emotional toll of litigation.

2.8.4 Balancing Authority and Influence in ADR

Balancing control and power in ADR are vital for achieving fair and satisfactory outcomes. Effective ADR practitioners are adept at empowering parties while managing power dynamics to ensure equity and fairness. Riskin's (2013) comprehensive analysis of mediation models highlights the importance of balancing control and power. Riskin argues that mediators must adapt their approaches to the specific needs and power dynamics of the parties involved to facilitate effective and equitable resolutions. Brown's (2012) research on dispute resolution systems in organizations

demonstrates that ADR processes that carefully balance control and power lead to higher satisfaction and reduced conflict recurrence. This balance helps create a more inclusive and participatory environment for dispute resolution.

The mediator's role is crucial in balancing authority and influence, as they must manage the power dynamics between parties while remaining impartial (Bvumbwe & Thwala, 2011). Studies indicate that the success of mediation often depends on the mediator's ability to empower parties and encourage mutual respect, thereby balancing authority with influence (Choudree, 2009). Empowering parties and managing power dynamics are essential for achieving fair and durable resolutions. Studies consistently show that when disputants have control over the process and outcomes, ADR can be a powerful tool for resolving conflicts.

In sum, balancing authority and influence in ADR is a complex process shaped by social structures, cultural contexts, and individual interactions. Sociological perspectives provide valuable insights into how power dynamics operate within ADR, highlighting the importance of fairness, impartiality, and cultural sensitivity.

2.8.5 Therapeutic Jurisprudence

Recent reforms in judicial dispute resolution extend beyond the increasing adoption of ADR, introducing concepts like Therapeutic Jurisprudence (TJ). TJ encourages lawyers to consider the emotional impact of litigation on their clients, viewing the law as a tool for healing and emphasizing overall well-being of parties (Campbell, 2010; King & Guthrie, 2007; Wexler, 2011). Advocates of TJ argue that its focus on fairness and resolution is essential in managing emotionally charged situations and promoting individual autonomy (King & Guthrie, 2007; Wexler, 2011).

To assist lawyers in choosing the most appropriate ADR method, Schneider (1999) proposes a four-step framework: identifying emotional concerns, determining therapeutic procedures, implementing TJ strategies, and establishing a legal check-up system. Schneider suggests that depending on the client's needs, negotiation, arbitration, and mediation offer therapeutic potential. Negotiation allows for minimal client involvement, arbitration involves more active participation, and mediation, with its collaborative approach, encourages direct communication between parties. ADR methods such as mediation, arbitration, and negotiation align with TJ principles by offering more flexible, less adversarial, and more supportive environments for resolving disputes. Mediation, in particular, fosters direct communication and collaboration, which can help manage emotional stress and promote positive outcomes (Menkel-Meadow, 2000; Riskin, 2013). Arbitration and negotiation also offer therapeutic potential but vary in terms of client involvement and control. Overall, these approaches represent a shift towards a more compassionate and restorative legal practice, aiming to address not just legal issues but also the emotional needs of the parties involved

2.8.6 Process Adjustment

The adaptability and flexibility of Alternative Dispute Resolution (ADR) make it particularly effective in resolving conflicts, especially in intimate relationships. Mediators can adjust their strategies as the process unfolds, addressing deeper issues that may emerge (Riskin, 1996). Unlike rigid court decisions, ADR outcomes are creative and tailored to the specific needs of the parties, such as customized parenting plans or financial arrangements (Bingham, 2004). This customization promotes open communication, helping parties express their needs more effectively (Emery, 2011). When the resolution process respects the unique circumstances of the individuals involved, satisfaction with outcomes and adherence to agreements are more likely (Bush & Folger,

2004). ADR also fosters cooperation, preserving relationships by avoiding adversarial approaches (McEwen & Maiman, 2018). The flexibility of ADR reduces the stress associated with conflict resolution, making it a more approachable option (Bingham, 2004).

In sum, ADR is preferred in intimate partner disputes because it is efficient, cost-effective, and conducive to preserving relationships. It offers higher compliance rates, is culturally and religiously appropriate in some communities, and provides a safer environment for marginalized groups. Promoting ADR, particularly mediation, is crucial for enhancing the efficiency of the justice system.

2.9 Challenges and Criticisms of Applying ADR in Intimate Relationships

Applying Alternative Dispute Resolution (ADR) to intimate relationships faces several challenges and criticisms: ADR, especially mediation, can exacerbate power imbalances within relationships. The less powerful party may feel pressured to accept unfavorable compromises, perpetuating existing inequalities (Hannah, 2011; Brown, 2012). Also, intimate relationships involve deep emotional issues that ADR's focus on interests and needs may oversimplify. This approach might not fully address the emotional depth required for effective conflict resolution (Folberg, 1983).

ADR's emphasis on settlement may undermine justice and accountability, particularly in cases involving abuse. Mediation might pressure victims to reconcile with abusers, prioritizing relationship preservation over safety (Geffner, 2009; Ver Steegh, 2012). The confidentiality of ADR processes can be problematic in situations where secrecy might enable ongoing abuse or harm (Herman, 2016). More importantly, ADR relies on voluntary participation, but one party may feel coerced into agreement to avoid litigation costs, potentially resulting in less optimal outcomes

(Hale, 2014). Unlike court decisions, ADR outcomes do not set legal precedents, which can be a disadvantage in cases where broader legal principles are important (Menkel-Meadow, 1995).

In sum, while ADR offers benefits in many contexts, its application in intimate relationships may perpetuate power imbalances, oversimplify emotional complexities, compromise justice, and prioritize relationship preservation over individual well-being.

2.10 The Influence of ADR Mechanisms on Intimate Relationships, Outcomes and Implications.

Research suggests that ADR methods yield favorable outcomes in intimate disputes by fostering communication, collaboration, and mutual understanding between parties (Emery, 2016). Studies have shown that couples who opt for mediation or collaborative law experience reduced conflict, improved post-divorce relationships, and greater satisfaction with the resolution process compared to those who pursue litigation (Emery & Dinescu, 2019). Both anecdotal and empirical evidence indicate that a significant number of women who are survivors of intimate partner violence opt for community-based (ADR) mechanisms to address the violence they experience. Studies suggest that up to 80% of disputes disclosed in the Global South are resolved through informal justice systems. These approaches offer survivors certain advantages over the formal system, such as being more cost-effective, accessible, and aligned with local community and cultural norms (Wojkowska, 2007; Harper, 2011).

However, despite the prevalence of survivors turning to informal justice mechanisms, there is a notable lack of attention in international literature regarding how these mechanisms operate. Additionally, there has been limited analysis of whether these ADR mechanisms effectively put

an end to intimate partner violence or adhere to the ethical standard of prioritizing women survivors' autonomy in speaking for themselves and determining their own path forward.

2.10.1 Improved Access and Equitable Outcomes

Garth, Weisner and Koch (1978) defined access to justice as the ability of individuals to seek and obtain remedies for grievances through formal or informal institutions in line with human rights standards. Their definition extended beyond mere access to courts, emphasizing the need to eliminate economic, social, and procedural barriers that hinder individuals from utilizing legal systems effectively. Since then, the meaning of access to justice has evolved, becoming more nuanced and varied. Sackville (2018) notes that access to justice now carries different interpretations for different people. For some, it represents an ideal, the fundamental principle that all individuals should enjoy equality before the law. For others, it signifies the practical realization of this ideal through innovative solutions designed to meet the specific needs of the poor and marginalized. This includes providing mechanisms to address economic, social, and cultural rights, as well as combatting power imbalances arising from significant wealth inequalities.

In the context of ADR, access to justice involves offering more accessible, cost-effective, and equitable outcomes, especially for individuals with limited means. ADR processes like mediation and arbitration aim to reduce the financial burdens associated with traditional litigation by offering less adversarial and more flexible options. Brown (2012) highlights that ADR methods, including techniques like caucusing, are designed to facilitate settlements while avoiding the high costs of adversarial court hearings. By focusing on fairness, dialogue, and reducing expenditure for disputants, ADR mechanisms enhance access to justice, allowing individuals from diverse socioeconomic backgrounds to resolve disputes efficiently and fairly.

Furthermore, ADR contributes to the democratization of justice by being more culturally attuned to the needs of local communities. This capacity to adapt to different social contexts further strengthens ADR's role in promoting equitable access to justice (Harper, 2011).

2.10.2 Cultural Sensitivity

ADR processes in intimate disputes, such as mediation and arbitration, often yield more tailored and creative solutions that address the unique needs and interests of both parties, particularly when dealing with sensitive issues like child custody and parenting arrangements (Folberg et al., 2014). Unlike traditional litigation, which tends to focus on a win-lose outcome, ADR offers a more collaborative and flexible approach that allows for solutions aligned with the cultural and social contexts of the disputing parties. This is particularly relevant in regions where cultural norms play a significant role in family dynamics and decision-making processes.

Pawlowski's (2007) comparative study of mediation and arbitration systems in the United States, Europe, and Australia in child custody disputes highlights the potential benefits of ADR in such contexts. The research underscores the detrimental impact of cross-border litigation on children, particularly when international treaties complicate the resolution process. Pawlowski advocates for incorporating ADR mechanisms, such as mediation, within international frameworks like the Hague Convention to facilitate amicable resolutions in child custody cases. By doing so, ADR can help mitigate the negative effects of prolonged litigation on children, while offering solutions that are sensitive to the cultural and familial context of the disputing parties.

Albarrak's (2021) systematic review further supports these findings, suggesting that ADR, particularly mediation, enhances outcomes for families involved in custody disputes. The review

shows that mediation not only reduces conflict but also fosters long-term cooperation between parents. In cases where mediation was used, non-residential parents, especially fathers, were found to remain more involved in their children's lives and co-parent more effectively compared to those who litigated. Mediation facilitated flexible arrangements that adapted to the evolving needs of the family, promoting more harmonious post-separation parenting relationships.

Moreover, a longitudinal study by Emery et al. (2001) provides evidence that fathers who participated in mediation maintained better contact with their children and experienced higher satisfaction in co-parenting roles over time, compared to those who pursued traditional litigation. Although satisfaction levels declined for both groups over time, those who mediated continued to report higher satisfaction rates. This illustrates the capacity of ADR to foster more positive and sustainable outcomes in child custody disputes, promoting long-term involvement of both parents without exacerbating conflict.

In regions where cultural sensitivity is key, ADR can offer dispute resolution methods that respect local values while also addressing the emotional and psychological needs of all parties involved, especially children. By integrating ADR into legal frameworks on an international scale, it is possible to create more effective, compassionate, and culturally aware solutions to intimate disputes, particularly in child custody and co-parenting arrangements.

2.10.3 Improved Communication and Cooperation

Studies show that collaborative law and mediation enhance communication and cooperation between parties. This is particularly beneficial in family disputes, where ongoing interactions, such as co-parenting, are necessary. Improved communication can lead to more sustainable and

amicable agreements (Macfarlane, 2004). These studies collectively support the notion that ADR methods, particularly mediation, provide better outcomes for child custody arrangements by reducing conflict, expediting settlements, and improving parental satisfaction and involvement.

Conflicts in romantic relationships can have profound psychological effects on individuals. Research on ADR can shed light on approaches that promote psychological well-being and resilience, contributing to healthier relationships and, consequently, healthier individuals (Folberg et al., 2014). Further, ADR methods often lead to more tailored and creative solutions that address the unique needs and interests of both parties, particularly concerning child custody and parenting arrangements (Folberg et al., 2014). This flexibility contrasts with the rigid outcomes often seen in court-imposed decisions.

In sum, ADR significantly improves access to justice in family disputes by providing more equitable, cost-effective, and less adversarial solutions. The integration of ADR into legal systems, both as mandatory and voluntary processes, has broadened the concept of justice and made it more accessible. Additionally, the role of legal practitioners and the advent of digital technologies have further enhanced the effectiveness and reach of ADR. Overall, ADR presents a promising pathway for resolving family disputes in a more just and efficient manner.

2.11 Exploring Limited Legal Agency in the Application of ADR among Intimate Partner Disputants

Globally, it is well recognized that family law litigants face significant challenges within the legal system. Issues such as separation, divorce, domestic violence, and child custody disputes are particularly painful and complex. The number of family law cases brought to the courts have been steadily increasing (Tyagi & Tyagi, 2021). Despite this rising demand, research has shown that

the adversarial nature of court proceedings often exacerbates conflicts within families rather than resolving them (Brinig & Allen, 2000). Consequently, alternatives such as mediation and collaborative law have received greater support and wide application.

This development has garnered significant scholarly attention (Price, 2018). While proponents argue that ADR offers a more humane and efficient approach to resolving family conflicts, critics raise concerns about its suitability, particularly in cases involving power imbalances and limited legal agency (Basu, 2010). This section explores the various perspectives on the application of ADR in family law, focusing on the debate surrounding limited legal agency.

Proponents of ADR in family law argue that these methods provide a more amicable and less adversarial approach to resolving disputes, particularly those involving intimate relationships. The key benefits cited include its ability to reduce adversarial conflict. Scholars like Emery, (2016) argues that ADR methods such as mediation and collaborative law reduce the adversarial nature of family disputes, leading to less animosity between parties. This is especially important in cases involving children, where ongoing relationships between parents are essential for effective co-parenting. Emery and Dinescu (2019) further emphasize that couples who opt for ADR experience improved post-divorce relationships and greater satisfaction with the resolution process compared to those who pursue litigation.

ADR has been argued to allow for more creative and tailored solutions that address the unique needs and interests of both parties. Folberg et al. (2014) highlight that mediation and arbitration in child custody cases can lead to outcomes that are better suited to the specific circumstances of the family, particularly when compared to the rigid rulings of the court system. Pawlowski's (2007) examination of mediation and arbitration systems in the US, Europe, and Australia also suggests

that these models can be effectively transposed internationally to alleviate the conditions of children involved in prolonged custody battles.

Again, ADR has been argued to improve outcomes for children. Studies have shown that mediation can lead to better outcomes for children involved in custody disputes. For instance, a study by Johnson & Johnson (2017) found that children whose parents opted for mediation rather than litigation had better psychological adjustment. Albarrak (2021) conducted a systematic review that supported these findings, showing that mediation led to more cooperative and flexible parenting arrangements over time. Moreover, it has been claimed to have long-term Satisfaction. Emery et al. (2001) found that non-residential parents who mediated were more involved in their children's lives and maintained better contact over the years. This long-term engagement contributed to greater satisfaction among fathers who mediated, even though satisfaction levels declined over time for both mediation and litigation groups.

2.11.1 Challenges and Criticisms of its Application

While ADR is praised for its flexibility and cost-effectiveness in resolving family law disputes, its application has not been without challenges and criticisms. Scholars and practitioners have raised significant concerns about the impact of ADR, particularly mediation, on parties with limited legal agency, often emphasizing the risks of power imbalances and the potential for unfair outcomes.

One of the primary criticism's centers on the perpetuation, or even exacerbation, of power imbalances between disputing parties. Critics like Hannah (2011) and Brown (2012) argue that ADR, particularly mediation, tends to favor the more dominant or powerful party in a relationship. In family disputes where one party may already have greater financial, emotional, or social power, this can lead to a skewed dynamic during negotiations. The less powerful party may feel pressured into compromising their interests or accepting less favorable terms to avoid prolonged conflict.

This is particularly concerning in intimate disputes where financial dependence, emotional vulnerability, or fear of retaliation may prevent one party from asserting their rights. Such power imbalances can result in outcomes that are far from equitable, leading to unfair settlements that do not fully protect the interests of the weaker party.

Moreover, Glasl (2013) notes that as conflicts escalate, parties often shift from viewing each other as collaborators to adversaries, making it difficult to reach a mediated resolution. In such cases, the emotional intensity and adversarial mindset may necessitate formal legal representation and adjudication, rather than relying on the informal and cooperative processes of mediation. This observation is especially pertinent in cases where deeply entrenched disputes, such as those involving infidelity, abuse, or child custody, require clear legal interventions rather than interest-based negotiations.

Another important criticism of ADR is its lack of legal precedent-setting, as highlighted by Menkel-Meadow (1995). Unlike court rulings, which establish legal principles and precedents that guide future cases, ADR outcomes do not contribute to the broader legal landscape. For parties seeking to resolve disputes with implications for wider legal issues such as gender equality, property rights, or child custody arrangements this can be a significant disadvantage. Without the benefit of a formal legal framework, the outcomes of ADR processes may be inconsistent and unpredictable, particularly in cases involving complex legal or moral issues. This inconsistency can undermine the fairness and justice of the resolution process, as similar cases might yield different outcomes depending on the mediator's approach or the parties' negotiating skills.

The emotional complexity of intimate relationships also presents challenges for ADR. While ADR techniques, such as mediation, focus on identifying the interests and needs of the parties involved, critics like Folberg (2001) and Grillo (1991) argue that this approach may oversimplify the

emotional depth and nuance required for meaningful conflict resolution. Intimate partner disputes are often charged with strong emotions, anger, betrayal, fear, and grief that cannot easily be addressed through interest-based negotiation alone. As a result, ADR may produce settlements that fail to fully account for the emotional well-being of the parties, leaving deeper issues unresolved and potentially leading to further conflict down the road.

In cases involving domestic abuse or exploitation, ADR's focus on settlement and compromise can be particularly problematic. Geffner (2009) and Ver Steegh (2012) argue that ADR, and especially mediation, may place undue pressure on victims to reconcile with their abusers. By prioritizing the preservation of relationships over individual safety and justice, ADR can undermine accountability for perpetrators and place victims at continued risk. Mediation, for example, often encourages both parties to find common ground, but in cases of abuse, this can be inappropriate or even dangerous, as it may lead to victims feeling obligated to forgive or maintain contact with their abuser.

Herman (2016) raises additional concerns regarding the confidentiality of ADR processes, which, while intended to protect the privacy of the parties involved, may inadvertently enable further abuse or manipulation. In situations where one party holds more power, confidentiality can allow the more powerful party to exploit the process without fear of external accountability. For instance, abusers may use mediation to maintain control over their victim while avoiding public scrutiny or legal repercussions.

Finally, the voluntary nature of ADR is both a strength and a potential weakness. As Hale (2014) points out, the effectiveness of ADR relies on the genuine willingness of both parties to participate in the process. However, in many cases, one party may feel coerced into agreeing to ADR to avoid the costs, delays, and emotional toll of litigation. This coercion undermines the fundamental

principle of voluntariness in ADR, leading to settlements that are not fully consensual or equitable. In family law disputes, this issue is particularly acute, as parties may feel pressure to settle quickly to protect their children from further stress or to avoid public scrutiny of their private lives.

In summary, while ADR offers many benefits in family law and intimate disputes such as flexibility, cost savings, and the potential for collaborative solutions, its application is fraught with challenges. Power imbalances, the absence of legal precedents, emotional oversimplification, risks to victims of abuse, and the voluntary nature of participation all pose significant hurdles that policymakers and practitioners must carefully navigate to ensure that ADR processes are fair, effective, and just.

2.11.2 Exceptional Cases

Anecdotal evidence from reports on family courts emphasizes that mediation services are designed not to replace the court system but to divert appropriate cases away from it. The intention is to alleviate the burden on courts by resolving cases that are amenable to negotiation and compromise outside the adversarial system. However, this approach is not without limitations, especially in situations where the safety and well-being of individuals are at risk.

There are certain categories of family law disputes where the application of ADR is either inappropriate or potentially harmful. These include cases involving serious domestic violence, child abuse, and other forms of coercion or exploitation. The primary concern in these cases is the inherent power imbalance between the parties, which can be exacerbated by the private, informal nature of ADR processes like mediation. Cases involving serious violence against one of the spouses or partners are generally considered unsuitable for mediation or other ADR processes. The power imbalance in such relationships often means that the victim may be unable to negotiate freely or safely, and the informality of mediation can lead to further victimization. As Ojelabi &

Noone (2011) notes, the risk of re-victimization is particularly high when victims of domestic violence are encouraged to mediate with their abusers, as the dynamics of control and fear can persist in the mediation setting. Courts, with their formal structures and protective orders, are better equipped to handle such cases, ensuring that the rights and safety of the victim are prioritized.

Allegations of child sexual or physical abuse also fall into the category of cases that require court intervention. The complexity and severity of these issues demand a formal legal process where evidence can be thoroughly examined, and appropriate protective measures can be implemented. ADR processes may lack the procedural safeguards necessary to protect the child's interests. According to Woolf (1997), the court's role in such cases is crucial in safeguarding the welfare of the child, as the legal system can impose binding orders that ensure the child's safety and well-being, something that ADR processes may not be able to guarantee.

In cases where one party may be subjected to coercion or exploitation, ADR may not provide the necessary protection. The informal nature of ADR can make it difficult to identify and address these issues, leaving vulnerable parties without the legal safeguards that a court process would offer. Research by Ver Steegh (2005) highlights the potential risks of coercion in mediation, especially in family disputes where one party may exert undue influence over the other.

In conclusion, while ADR offers many benefits in the context of family law, particularly in fostering communication, reducing conflict, and preserving relationships, it is not a one-size-fits-all solution. Cases, involving serious violence, child abuse, and significant power imbalances, are better suited for resolution within the formal court system. These exceptional cases require the structure, formality, and protective measures that only the court can provide. Therefore, while ADR should be encouraged and supported as a means of diverting appropriate cases from the court

system, it is essential to recognize its limitations and ensure that vulnerable parties are not placed at risk by being diverted into processes that may not adequately protect their rights and safety.

2.12 Theoretical Framework for Alternative Dispute Resolution

According to Crotty (1998) the theoretical perspective is characterized as the framework guiding the methodology, thereby establishing a framework for the process and establishing its rationale and standards. This section sets the stage for exploring the key sociological theory that underpins the study, the theory of Legal Consciousness.

2.12.1 The Theory of Legal Consciousness

Experiencing a wrong at the hands of those we are close to whether colleagues, friends, or family is a common occurrence. How do we define, contest, and respond to what seems unfair in these situations? Under what circumstances might we consider the law relevant, and when might we choose to invoke it? Socio-legal scholars have turned to the concept of Legal Consciousness (LC) to explore these questions. LC is a socio-legal theory that examines how legal concepts and reasoning are understood, interpreted, and implemented in everyday interactions, both at individual and collective level (Chua & Engel, 2019; Ewick & Silbey, 1998).

2.12.2 Defining Legal Consciousness

Legal Consciousness refers to the collective legal awareness, ideas, views, feelings, and traditions that individuals or groups internalize through socialization, reflecting a broader legal culture. It involves both an evaluation of existing law and a vision of what the law should be. LC underscores the social and psychological factors that shape how people use the justice system when faced with disputes. These factors such as societal values, cultural norms, socioeconomic resources, and

social relationships are developed through an individual's holistic socialization process and influence their ultimate response to conflicts (Ewick & Silbey, 1998).

2.12.3 Historical and Theoretical Development

The concept of LC has a long history within socio-legal scholarship, beginning with Ehrlich (1915) and extending to studies that investigated knowledge of specific laws (Flavier & Chen, 1980). Early research focused on "legal knowledge," often measured quantitatively. Initially, LC was viewed as a specific form of consciousness associated with the legal profession, encompassing legal rules, arguments, theories, and information about legal processes. However, this quantitative approach was later deemed too reductionist, leading to a broader conceptualization that included how ordinary people think about, talk about, and understand the law in their daily lives (Ewick & Silbey, 1998; Merry, 1990; Nielsen, 2000).

Researchers have since delved deeper into the components of LC and their classification. Ewick and Silbey (1998) introduced three schemas of LC: "before the law," "with the law," and "against the law." Hull (2003) argued that LC should be understood as a "layered phenomenon," composed of cognitive and behavioral layers. This psychological perspective considered LC as an individual, static, or micro-level phenomenon that could be measured as a state of knowledge. In contrast, a sociological perspective emerged, focusing on the social relations through which legal meanings, opinions, and beliefs are created and recreated. This macro perspective relies on qualitative methods and surveys (Silbey, 2005; Gómez, 2016).

Recent developments in LC research attempt to bridge the gap between individual and social viewpoints through what is known as "second-order legal consciousness research." This approach posits that individuals adjust their LC based on their perceptions of broader societal LC,

emphasizing the dynamic processes of LC creation and modification rather than static measurement (Young, 2014; Gómez, 2022).

2.12.4 Legal Consciousness in Practice

Modern LC theory explains how law maintains its institutional power over time and space, often invisibly permeating everyday life. In societies governed by the rule of law, legal authority is usually uncontested or challenged within legally provided channels (Ewick & Silbey, 1992). The law provides frameworks that shape people's experiences with various social interactions, such as those with family, neighbors, and even in instances of street harassment (Engel, 1998; Merry, 1990; Nielsen, 2000). LC is thus not merely an individual trait but a social construct developed through practice and reflective of social structures.

Continuous studies reveal that LC, like culture, can undergo transformations, leading to shifts in consciousness (Nelson, 2000). For example, Engel's (2005) study in Thailand found that globalization affected people's responses to unjust acts. Despite having knowledge of their rights and legal remedies, individuals rarely engaged the legal justice system, as their religious beliefs such as karma and ghostly retribution influenced their responses to being wronged. This illustrates how individuals adjust their LC according to their subjective assumptions within society (Young, 2014).

2.12.5 Legal Consciousness in the African Context

Traditional African societies were concerned with maintaining social equilibrium. Many norms in these communities, including dispute resolution practices, were designed to uphold this collective solidarity (Sarbah, 1897). The ethos of traditional dispute resolution was to restore relationships once a disagreement was settled. For instance, among the Yoruba of Nigeria, disputes that reach

the courts are often seen as a mark of shame, as the parties are perceived as not favoring reconciliation (Omale, 2006). In these societies, the emphasis on amicable resolution influence both societal and individual responses to disputes (Uwazie, 2011).

In the context of family disputes, such as divorce or inheritance, customary mediation processes often encourage parties to reconcile and maintain social ties, which contrasts with the adversarial nature of court proceedings. The court system, introduced through colonialism, focuses on legal rights and liabilities, while traditional systems view disputes through the lens of collective harmony. This approach ensures that even after a conflict is resolved, both parties can continue coexisting in peace a critical outcome in close-knit communities (Choudree, 1999). Legal scholars like Iyer and Tewari (2018) argue that because of the ubuntu-driven preference for non-adversarial dispute resolution, individuals will often use formal courts only when informal methods fail or when they perceive that their customary system is unable to protect their rights. This selective engagement with the formal legal system reflects the hybrid nature of legal consciousness in Africa. Rather than fully adopting either customary or formal legal systems, many individuals navigate between them depending on the context of the dispute, the available resources, and their desire for either reconciliation or legal adjudication.

In addition to cultural norms, LC suggests that people consider the efficiency, satisfaction, fairness, cost, and the nature of their relationship with the disputant when choosing how to resolve a conflict. Ultimately, the theory of legal consciousness traces how law is experienced and interpreted by individuals as they engage with, avoid, or resist the law. This theoretical lens serves as a valuable framework for analyzing how people navigate legal and social landscapes, in the face of being wronged (Ewick & Silbey, 1992).

In a nut shell, the theory of Legal Consciousness offers a powerful lens through which to understand the nuanced and complex ways in which individuals and communities interact with the law. By examining the historical evolution and theoretical foundations of this concept, it becomes evident that legal consciousness is not just a static body of knowledge but a dynamic process shaped by cultural norms, socialization, and lived experiences. In the context of ADR, this theory reveals the deeper social and psychological dimensions that influence how people choose to resolve their disputes, whether through formal legal channels or alternative mechanisms. Particularly in the African context, where traditional practices and communal values play a significant role, legal consciousness helps explain why certain methods of dispute resolution are favored over others. The theory will serve as a vital tool for analyzing the choices, behaviors, and attitudes of individuals engaged in ADR. It will allow us to explore how legal norms are internalized, contested, and redefined in everyday life, shedding light on the broader social implications of ADR practices.

2.13 Conclusion

The literature review has traced the historical development and contemporary application of Alternative Dispute Resolution (ADR), particularly in the realm of family law and intimate relationships, revealing its evolving significance and multifaceted impact. Through an exploration of the origins and progression of ADR, the review has highlighted how this method, initially conceived to alleviate court congestion and provide more amicable resolutions, has transitioned into a mainstream approach in legal systems globally. The institutionalization of ADR marks a significant shift in dispute resolution, emphasizing the benefits of mediation, negotiation, and arbitration over traditional adversarial litigation.

One of the key insights drawn from the review is the recognition that ADR is not a novel concept in all contexts. Conflict resolution methods in pre-colonial Africa, for example, were deeply embedded in communal values, with a focus on reconciliation, collective responsibility, and the preservation of social harmony. These traditional practices, mediated by elders and community leaders, stand in contrast to the adversarial systems introduced during colonialism, and their influence continues to resonate in the application of ADR today. The emphasis on preserving relationships rather than seeking punitive measures aligns with contemporary collaborative approaches in family law.

Globally, the shift in family law towards collaborative dispute resolution reflects the recognition of the emotional, psychological, and social complexities inherent in family disputes. This shift, favoring mediation and negotiation over litigation, aims to empower parties to reach mutually acceptable solutions. As discussed in the review, these methods are designed to foster cooperation rather than confrontation, providing a framework that is often better suited to the sensitive nature of family and intimate relationship disputes.

The review also examined the reasons behind the increasing use of ADR among intimate partners. Factors such as the desire for privacy, the need for quicker and less adversarial resolutions, and the opportunity to maintain or salvage relationships play a pivotal role in the decision to opt for ADR over traditional litigation. Cultural, economic, and emotional influences also shape this decision-making process, highlighting the unique pressures faced by individuals in family and intimate disputes.

Outcomes of ADR usage among intimate couples were critically reviewed, acknowledging both the benefits and challenges. While ADR can often lead to more amicable and sustainable resolutions, issues such as power imbalances and the potential for coercion were identified as

significant challenges. The literature points to a need for greater awareness of these dynamics to ensure that ADR processes are fair and just for all parties involved. Empirical studies and case analyses have underscored the importance of addressing these concerns to enhance the overall effectiveness of ADR in intimate disputes.

Central to this review was the concept of limited legal agency, particularly in the context of ADR usage among marginalized groups. Social, economic, and cultural constraints can severely limit individuals' ability to fully exercise their legal rights within ADR processes. This limitation, particularly for women, economically disadvantaged individuals, and those from marginalized communities, often results in uneven outcomes and raises concerns about the fairness of ADR. The review has highlighted the need for greater support and legal empowerment within ADR frameworks to ensure that vulnerable individuals can navigate the process effectively and equitably.

Finally, the review concluded by situating legal consciousness as the theoretical framework guiding this study. Legal consciousness, which examines how individuals perceive and interact with the law, provides valuable insights into the varied ways in which individuals engage with legal processes such as ADR. By understanding how people interpret their rights and options within ADR, this study seeks to unpack the broader socio-legal implications of ADR in family law, particularly how legal consciousness shapes experiences, influences outcomes, and reinforces or challenges existing power dynamics within intimate relationships.

In conclusion, the literature review has underscored the importance of ADR as a flexible and increasingly prevalent method for resolving family and intimate disputes. However, it also highlights critical areas that need further attention, particularly regarding the protection of vulnerable parties and ensuring equitable access to justice. The exploration of ADR's historical

roots, its modern-day applications, and the theoretical framework of legal consciousness provides a foundation for understanding the complexities of ADR application within intimate relationships, setting the stage for the empirical analysis to follow.



CHAPTER THREE

OVERVIEW OF GHANA'S COURT CONNECTED ALTERNATIVE DISPUTE RESOLUTION

3.1 Introduction

Ghana has a rich heritage of traditional dispute resolution mechanisms that have shaped the development and implementation of modern ADR practices within the country's legal framework. The legal mandate for Court-Connected ADR in Ghana is rooted in both statutory provisions and traditional indigenous practices, which have co-existed and influenced each other over time. This section explores the (1) legal frameworks governing ADR practice in Ghana, (2) the evolution of traditional dispute resolution methods, and the integration of these (3) practices into the modern judicial system.

3.2 Definition and Scope of ADR in Ghana

The mission of the Judicial Service of Ghana is to promote the smooth and efficient administration of justice to all manner of persons without fear or favor, affection or ill -will, and by that create an enabling environment for good governance. The service is committed to improving its output and service delivery, accessibility, user friendliness and cost effectiveness. It is also committed to maintaining high standards of efficiency at all levels through capacity building, manpower development and training. Its objectives include promoting and upholding human rights, changing public perception of the judiciary and building public confidence in the service. This section gives an account of the structure and process of the CCADR operation in the justice system of Ghana.

Section 1 (1) of the Alternative Dispute Resolution Practice Manual (ADR) defines the term ADR as a range of procedures that serve as alternatives to traditional litigation for the resolution of

disputes and generally involves the assistance of a neutral and impartial third party. The Court - Connected ADR refers to the various methods of resolving disputes that are available to the court other than court trial processes. The methods include: Negotiation, Mediation, Conciliation, Arbitration, Customary Arbitration, Mediation-Arbitration (Med-Arb) and Neutral Case Evaluation. Mediation is however the main method used for the court connected ADR in Ghana.

3.3 Legal Framework for Court -Connected ADR Operations in Ghana

In Ghana, ADR has been institutionalized and integrated into the legal framework as a means to enhance access to justice, promote efficiency in dispute resolution, and reduce the backlog of cases in the courts. The legal mandate for court-connected ADR operations in Ghana is primarily governed by statutes, court rules, and policy directives.

3.3.1 The ADR Act, 2010 (Act 798)

The Alternative Dispute Resolution Act of 2010, Act (798), stands as a pivotal legal mandate shaping the landscape of alternative dispute resolution (ADR) practice in Ghana. Enacted to provide a structured framework for resolving disputes outside of the traditional litigation process, the Act underscores Ghana's commitment to fostering efficient and accessible mechanisms for conflict resolution. Key provisions of the Act include the establishment of the Alternative Dispute Resolution Centre (ADRC), tasked with facilitating mediation, arbitration, and other forms of ADR. Furthermore, Act (798) promotes the utilization of ADR methods in both civil and criminal matters, emphasizing the importance of parties' voluntary participation in the resolution process. Section 33 of Act (798) specifically mandates the courts to encourage parties to explore ADR options before resorting to litigation. This provision empowers the courts to refer cases to mediation, arbitration, or other forms of ADR where appropriate.

3.3.2 Court Rules and Practice Directions

Other legal mandate for court connected ADR practice in Ghana is found in section 72 and 73 of the Courts' Act 1993 (Act 459) as amended. The Courts Act, 1993 (Act 459) empowers the Chief Justice to make rules for the practice and procedure of the courts. Pursuant to this authority, the Chief Justice has issued Practice Directions and Court Rules that establish the framework for court-connected ADR operations. These rules outline the procedures for ADR referral, appointment of mediators or arbitrators, and enforcement of ADR agreements.

Also, Order 58 Rule 4 of the High Court Civil Procedure Rules 2004 C.I 47, and other enactment listed in Section 72 (1) of the Court Act 1993 (459) state “ any court with jurisdiction and its officers shall promote reconciliation, encourage and facilitate the settlement of disputes in amicable manner between and among persons over whom the court has jurisdiction”. At section 72 (2) it states that “when a civil suit or proceeding is pending, any court with jurisdiction in that suit may promote reconciliation among the parties and encourage and facilitate the amicable settlement of the suit or proceeding”. Section 73 reads “Any court, with criminal jurisdiction may promote reconciliation, encourage and facilitate a settlement in an amicable manner of any offence not amounting to felony and not aggravated in degree, on payment of compensation or on other terms approved by the court before which the case is tried.

More so, the High Court (Alternative Dispute Resolution) Rules, 2004 (C.I. 47) govern ADR proceedings in the High Court of Ghana. Rule 3 of C.I. 47 empowers judges to direct parties to engage in mediation or other ADR processes at any stage of the proceedings. Similarly, the District Court (Mediation) Rules, 2017 (C.I. 111) regulate ADR procedures in the district courts.

3.3.3 Policy Directives

In addition to legislative and regulatory measures, the Government of Ghana has adopted policy directives to promote the use of ADR in the resolution of disputes. The National ADR Policy, launched in 2017, aims to mainstream ADR into the justice delivery system and enhance public awareness of ADR mechanisms. The policy emphasizes the role of the judiciary in promoting ADR and calls for collaboration between the judiciary, legal practitioners, and other stakeholders in the ADR sector.

3.3.4 Justice for All Programme

The Justice for All Programme (JFAP), established in 2007, is a State-led initiative in Ghana aimed at addressing prison overcrowding by creating Mobile In-prison Special Courts. These courts expedite the adjudication of cases involving remand and pre-trial prisoners, bringing justice directly to those awaiting trial. The programme emphasizes fairness, efficiency, and accessibility, overcoming logistical challenges in the legal process and incorporating elements of Alternative Dispute Resolution (ADR) to promote collaboration and problem-solving. JFAP represents a transformative approach to justice in Ghana, offering a more equitable and inclusive legal system while alleviating prison overcrowding.

3.3.5 Matrimonial Causes Act, 1971 (Act 367)

The Matrimonial Causes Act of 1971 is a key legislation in Ghana governing marital disputes surrounding divorce, alimony, custody, and property division. While the Matrimonial Causes Act of 1971 provides a legal framework for resolving marital disputes in Ghana, the use of alternative dispute resolution practices complement and enhance the effectiveness of the Act by offering parties more flexible, collaborative, and culturally sensitive methods of resolving conflicts related to separation, divorce, custody, and property division.

In Ghana, the interplay between the Matrimonial Causes Act and ADR practices is significant, as ADR methods are engaged to complement or sometimes even supersede marital conflict resolution. For instance, while the Matrimonial Causes Act provides guidelines for custody arrangements and maintenance payments, ADR mechanisms offer flexibility in crafting personalized solutions that cater for the unique needs and preferences of the parties involved. Mediation, for example, allows parents to collaborate on a parenting plan that prioritizes the best interests of the child (Katz, 2015). More importantly, the Act governs the division of marital property upon divorce, but ADR methods can offer a less contentious and more efficient means of resolving disputes over property division. Parties can select an arbitrator who specializes in family law to make binding decisions regarding the equitable distribution of assets and liabilities.

In sum, Ghanaian society often value community harmony and preservation of family relationships. ADR practices, which emphasize communication, compromise, and consensus-building, align with these cultural norms and may be preferred to adversarial litigation.

Given the aforementioned dynamics, there's a growing trend within the courts to prioritize Alternative Dispute Resolution (ADR) as the primary means of resolving matrimonial cases. Under this approach, clients are expected to demonstrate why their case isn't suitable for ADR. This shift underscores the increasing recognition of ADR's effectiveness in navigating matrimonial disputes, prompting a presumption in favor of its utilization.



3.3.6 The Children's Act of 1998 (Act 560)

The Children's Act of 1998 (Act 560) in Ghana serves as a comprehensive legal framework for the protection and welfare of children. It covers various aspects such as adoption, custody, maintenance, and protection from abuse and exploitation. The Act acknowledges the importance of Alternative Dispute Resolution (ADR) mechanisms in addressing issues concerning children, and its interplay with ADR in Ghana.

The Children's Act outlines provisions regarding the custody and guardianship of children, emphasizing the best interests of the child as paramount. ADR methods such as mediation or arbitration provide a less adversarial approach to resolving disputes related to child custody and guardianship. Parents or guardians can engage in constructive dialogue facilitated by ADR professionals to reach agreements that prioritize the welfare and needs of the child.

Also, Act (560) also addresses the financial support of children, including maintenance payments from parents or guardians. ADR processes offer a flexible and collaborative way to determine fair and reasonable maintenance arrangements. Through mediation or negotiation, parties can discuss financial responsibilities and develop a maintenance plan that meets the child's needs while considering the financial circumstances of both parents.

Furthermore, Act (560) regulates adoption and foster care procedures to ensure the protection and welfare of children. ADR practices may play a role in facilitating discussions between prospective adoptive parents, biological parents, and relevant authorities to address concerns and navigate the adoption process smoothly. Mediation can help parties understand their rights and responsibilities, clarify expectations, and reach agreements that serve the best interests of the child.

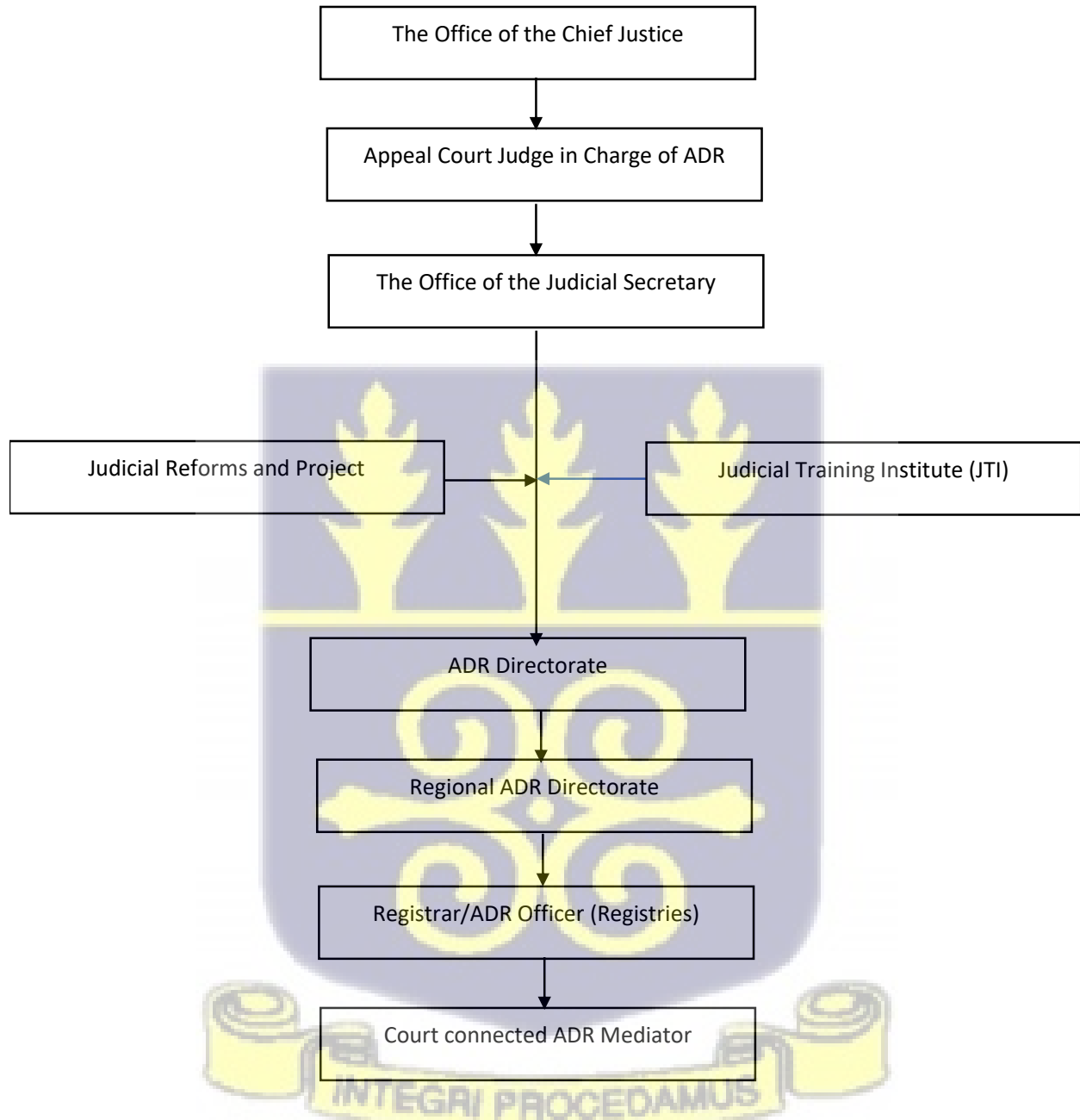
In summary, the Children's Act of 1998 (Act 560) in Ghana intersects with Alternative Dispute Resolution (ADR) practices in various ways, offering opportunities for constructive dialogue, collaborative decision-making, and the protection of children's rights and welfare. ADR methods can complement the legal framework provided by the Act by promoting timely, efficient, and child-centered resolutions to disputes involving custody, maintenance, protection, and other issues affecting children.

3.4 Court-Connected Organogram

The Court-Connected Alternative Dispute Resolution (ADR) presents a structured and coordinated approach to resolving disputes outside the traditional court system. The structure ensures efficient administration and coordination of ADR activities within the judicial framework of Ghana. The organogram reflects a hierarchical yet collaborative approach, involving various stakeholders and specialized units. Led by the esteemed Office of the Chief Justice, the framework underscores Ghana's commitment to promoting accessible and efficient avenues for dispute resolution. The Judicial Service, under the Chief Justice, manages the operational aspects of the court-connected ADR system. This includes training, certification, and administration of ADR practitioners and processes. Here is a brief overview of the organizational structure led by the esteemed Office of the Chief Justice, with the framework underscoring Ghana's commitment to promoting accessible and efficient avenues for dispute resolution (Judicial Service Report, 2018).



COURT CONNECTED ADR ORGANOGRAM
ORGANOGRAM



Source: Judicial Service of Ghana, Court-Connected ADR Practice Manual

Figure 1: The organogram of Court-Connected ADR

Each role, arranged in a hierarchical order, contributes to the smooth operation and effectiveness of ADR practices, as detailed in the CCADR Practice Manual (2007). The following sections delve into the specific tasks and functions associated with each position within this structured system.

3.4.1 Office of the Chief Justice

The Chief Justice of Ghana is the head of the judiciary and oversees the implementation of ADR policies and strategies. The Office of the Chief Justice plays a central role in the ADR organogram by overseeing the integration of ADR mechanisms within Ghana's judicial system. The office provides leadership and direction, ensuring that ADR aligns with judicial goals, reduces court caseloads, and enhances access to justice. This role includes promoting ADR, setting guidelines, facilitating training for practitioners, and advocating for continuous improvement in ADR practices. Overall, the Chief Justice ensures that ADR supports the judiciary's mission of upholding the rule of law and providing effective justice (Judicial Service Report, 2018).

3.4.2 Appeal Court Judge in Charge of ADR

Within the judicial hierarchy, an Appeal Court Judge has been designated to oversee ADR initiatives. This judge typically has extensive experience and expertise in ADR principles and practices. Their role involves providing guidance and leadership on ADR matters, including the development of ADR policies and the coordination of ADR programs across the country.

3.4.3 Office of the Judicial Secretary

The Office of the Judicial Secretary serves as the administrative hub of the judicial service. It supports the Chief Justice and the judiciary as a whole in execution of their duties. In the context of court-connected ADR, the Judicial Secretary's office is involved in coordinating ADR activities, managing resources, and liaising with other branches of government and external stakeholders.

3.4.4 National Alternative Dispute Resolution Directorate

The National Alternative Dispute Resolution (ADR) Directorate is a pivotal unit within Ghana's Judicial Service, dedicated to the promotion and management of ADR programs across the country. Operating under the authority of the Office of the Chief Justice, the Directorate plays a critical role in the development, implementation, and evaluation of ADR policies and strategies. Its mandate is to ensure that ADR mechanisms are effectively integrated into the judicial system, providing an alternative path to resolving disputes outside the traditional court processes.

The Directorate collaborates closely with various judicial bodies, government agencies, and key ADR stakeholders, including mediators, arbitrators, legal practitioners, and civil society organizations. This collaboration is essential in fostering a broad-based acceptance and utilization of ADR methods, ensuring that they are accessible, efficient, and aligned with the judiciary's overarching goals. The Directorate is led by a designated individual who is responsible for the overall administration and sustainability of the court-connected ADR scheme. This includes managing the day-to-day operations, overseeing the recruitment and training of ADR practitioners, and ensuring that ADR services are consistently available and of high quality.

In addition to its administrative functions, the ADR Directorate serves as a resource center for information and inquiries related to ADR processes within the Judicial Service. It provides guidance and answers to the public and legal community about ADR procedures, helping to demystify the process and encourage wider participation. The Directorate also plays a key role in public education, using both electronic and print media to raise awareness about the benefits and availability of ADR, thereby promoting a culture of peaceful conflict resolution throughout the nation.

3.4.5 Regional ADR Directorate

To ensure effective implementation of ADR programs at the regional level, the ADR Directorate has established regional branches or directorates. These regional entities are responsible for coordinating ADR activities within their respective jurisdictions, providing support to court annexed ADRs, and training ADR practitioners. Regional ADR directorates serve as vital links between the central ADR Directorate and regional ADR initiatives. The office is man by a regional ADR Coordinator who is in charge of ADR programme and activities at the regional level. The office holder ensures that Court Registrars submit ADR returns to National ADR Directorate at the end of each month. The position may organize seminars/workshops to educate the public on ADR matters.

3.4.6 Registrar/ADR Officer

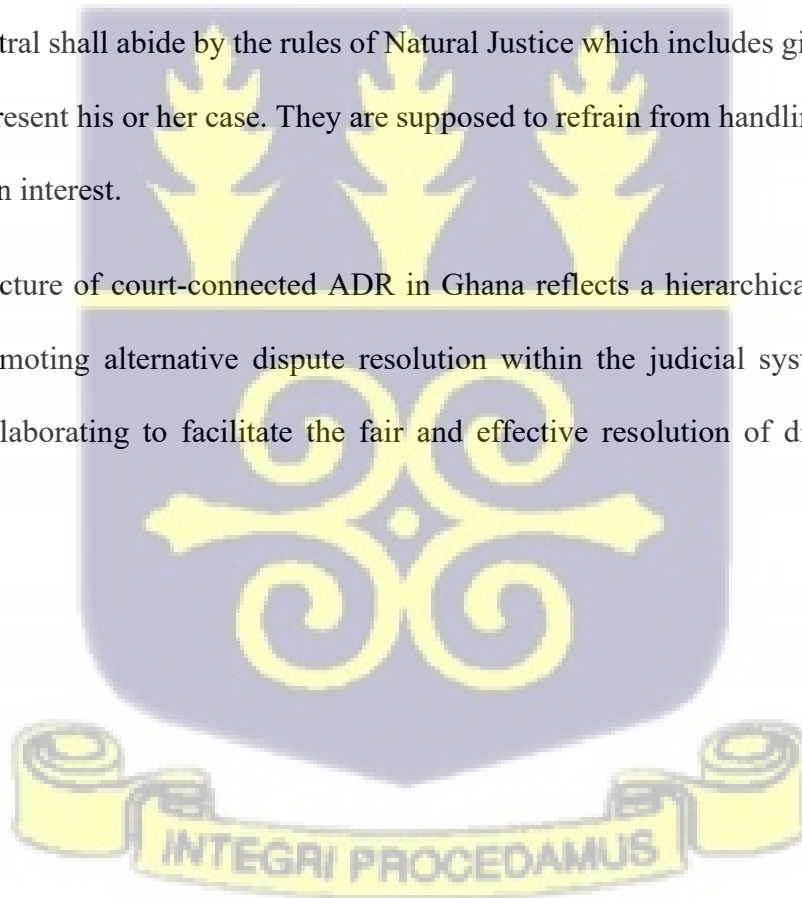
At the court level, registrars or ADR officers are appointed to manage ADR proceedings and support the resolution of disputes through ADR methods. They handle essential administrative tasks such as scheduling mediation sessions, maintaining case records, and facilitating communication between parties and ADR practitioners, ensuring that each case progresses efficiently through the ADR process. Registrars or ADR officers play a crucial role in ensuring the smooth operation of ADR processes within the court system, acting as the primary liaison between the parties, the court, and ADR practitioners to ensure that all procedural requirements are met.

Additionally, the ADR officer ensures that the ADR consent form is properly completed, verifying that all parties fully understand and agree to the ADR process before proceeding. The office holder also ensures that the terms of settlement are meticulously drawn up, appropriately signed or thumb-printed by the parties involved, and promptly transmitted to the court for official adoption, thereby integrating the ADR outcomes into the formal judicial process.

3.4.7 Court-Connected ADR Mediator

Mediators are neutral third parties trained to assist disputing parties in reaching mutually acceptable agreements. Within the court-connected ADR framework, mediators may be appointed or accredited by the judicial service to facilitate mediation sessions in accordance with established ADR rules and guidelines. Court-connected ADR mediators work closely with the registrar or ADR officer to conduct mediation proceedings and help parties resolve their disputes efficiently and amicably. The mediator develops trust and confidence of parties in ADR process that help in establishing a framework for co-operative decision making. The office holder terminates the process if it is obvious that settlement cannot be reached and makes award where the neutral is an arbitrator. A neutral shall abide by the rules of Natural Justice which includes giving a party equal opportunity to present his or her case. They are supposed to refrain from handling a case in which the neutral has an interest.

Overall, the structure of court-connected ADR in Ghana reflects a hierarchical and coordinated approach to promoting alternative dispute resolution within the judicial system, with various stakeholders collaborating to facilitate the fair and effective resolution of disputes across the country.



STEPS IN THE COURT-CONNECTED ADR PROGRAMME

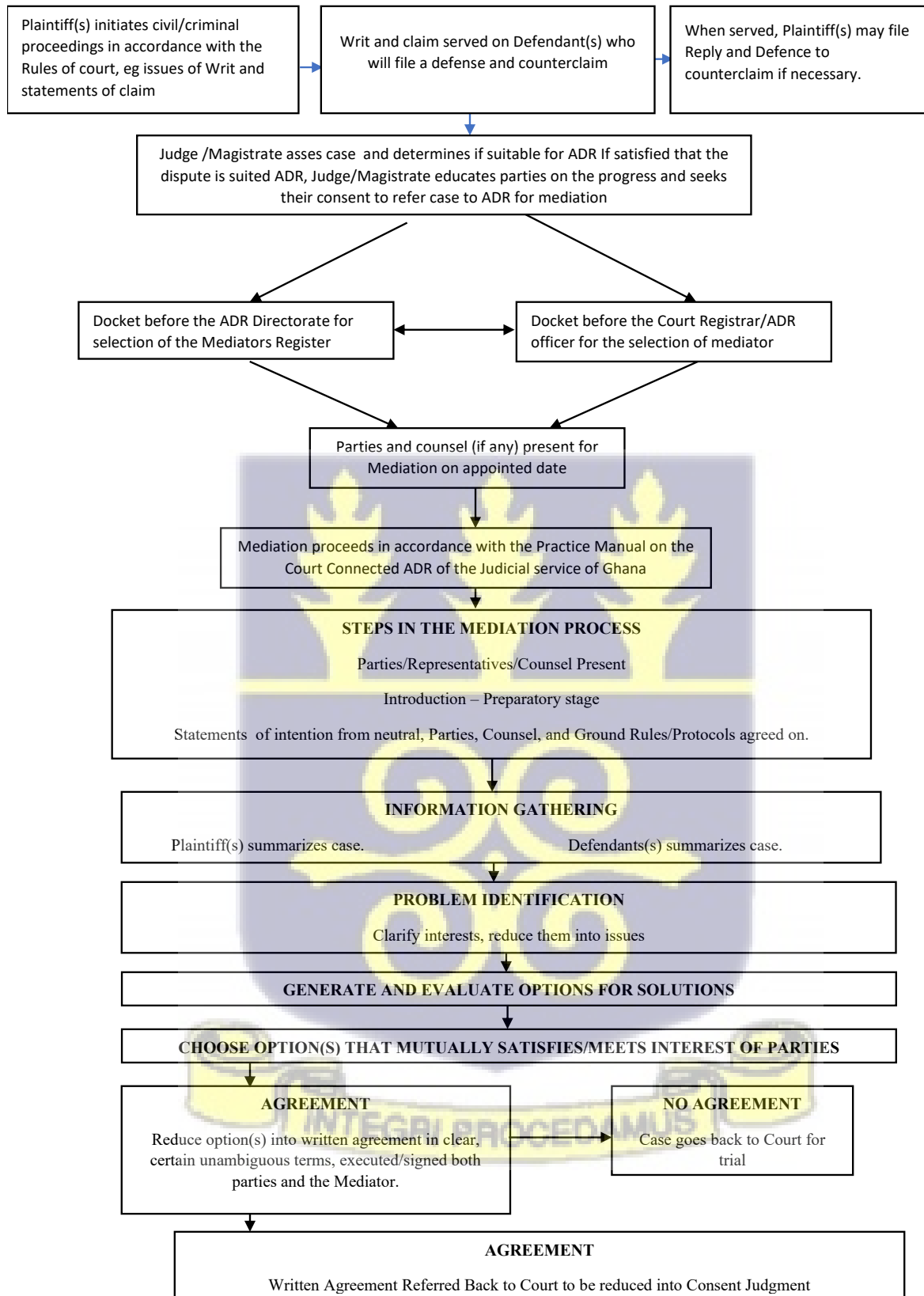


Figure 2: Steps in the Court-Connected ADR

Source: Judicial Service of Ghana, CCADR Practice Manual, (2007).

3.5 Procedural Framework of Court-Connected (ADR) in Ghana

The steps involved in this program are structured to ensure that parties have a fair chance to resolve their issues amicably, guided by trained ADR professionals and under the oversight of the court. Below is the outline of the key steps in the Court-Annexed ADR programme illustrating the process from initiation to resolution.

3.5.1 *Filing the Case*

Filing a case in court is the formal initiation of legal proceedings to resolve a dispute or seek justice. Whether it's a civil matter, criminal offense, or administrative issue, the process typically follows several steps which include consultation with Legal Counsel to assess the merits of the claim, understand legal rights, and determine the appropriate legal strategy (Welsh, 2001).

Once the decision to proceed with a case is made, legal documents need to be prepared. These documents can vary depending on the nature of the case. These documents outline the claims, allegations, or charges being brought against the defendant. The next process is to identify the appropriate court and jurisdiction since courts have specific rules about which cases they can hear based on factors such as geographical location, subject matter, and the amount of money involved (for civil case). Certain of the jurisdiction, the completed legal documents are filed with the appropriate court registry (Crook, 2012). After the case is filed, the defendant is formally notified of the legal action against them. This is known as "service of process" and typically involves delivering a copy of the legal documents to the defendant in person or by mail, depending on the court's rules. In Ghana, this task is carried out by the bailiff at a fee dependent on the location.

Once served with the legal documents, the defendant has a specified period to respond. If the case is not resolved through settlement or dismissal, it proceeds to trial or hearing (Crook, 2012).

3.5.2 Appearing Before the Judge

When parties involved in a legal dispute appear before a judge, they may be referred to Court-Connected Alternative Dispute Resolution (CCADR) either through a court order or based on the voluntary agreement of the parties. According to the *ADR Practice Manual* (2007), a referral to CCADR can occur at any stage of the litigation process, whether at the commencement of a trial or during the course of ongoing legal proceedings. The judge, recognizing the potential benefits of ADR such as promoting amicable settlements and reducing court backlogs may suggest or mandate the use of ADR to facilitate a resolution.

3.5.3 Initiation of Court- Connected ADR in Ghana

This can occur in various ways, depending on the circumstances of the case and the preferences of the involved parties.

Voluntary Initiation by Parties: The ADR process may be initiated voluntarily by the disputing parties or their legal representatives after a case has been filed in court. Parties may recognize the benefits of resolving their conflict through mediation, negotiation, or other ADR methods rather than pursuing a lengthy and potentially costly litigation process. In such instances, the parties may consent to settle their dispute through ADR at any stage of the legal proceedings. This approach emphasizes the autonomy of the parties in choosing a more collaborative and less adversarial method to resolve their issues.

Referral by the Judge: Alternatively, a judge presiding over the case may identify it as suitable for ADR and suggest or refer the parties to undergo ADR proceedings. This referral can occur at

various stages of the court process, such as during pre-trial conferences or even during ongoing trial proceedings. The judge's referral is not automatic; it requires the agreement and consent of the parties involved. If the parties' consent to the referral, the ADR process is then formally initiated. This judicial intervention underscores the court's role in promoting ADR as a viable alternative to traditional litigation, especially in cases where it may lead to a more amicable resolution.

Court-Initiated ADR: The court itself may also take the initiative to refer a matter to ADR at any stage of the proceedings. This can occur when one party expresses a desire to resolve the dispute amicably, either orally or in writing, and the other party agrees to this request. In such cases, the court may encourage the parties to attempt to settle the dispute through negotiation, mediation, or conciliation, and report back to the court within a specified time frame. This proactive approach by the court is designed to facilitate the resolution of disputes in a manner that is efficient and satisfactory to all parties involved.

Court Order for ADR: Once the parties have agreed to resolve their dispute through ADR, the court formalizes this decision by issuing an order. The court's order specifies that the matter in dispute will be settled through ADR and sets out the details, including the appointment of an ADR officer to oversee the process. The order also outlines the timeline, ensuring that the parties appear before the ADR officer within a specified period and that the outcome of the ADR process is reported back to the court within no more than thirty days. This structured approach ensures that the ADR process is conducted in a timely manner, with clear expectations for both the parties and the ADR officer.

Overall, the initiation of Court-Connected ADR in Ghana is a multi-faceted process that involves the collaboration of the court, the disputing parties, and ADR professionals. It reflects the

judiciary's commitment to promoting ADR as an effective means of dispute resolution within the formal legal system, while still respecting the autonomy of the parties involved.

3.5.4 Selection of a Neutral or ADR Service Provider

The selection of a neutral or ADR service provider is a critical step in the (CCADR) process in Ghana. This step involves choosing an impartial third party often referred to as a neutral who will facilitate the resolution of the dispute through mediation, negotiation, or another ADR method. The process of selecting a neutral is designed to ensure fairness, expertise, and impartiality, which are essential for the success of the ADR process.

The Register of Neutrals and ADR Service Providers: Each court in Ghana maintains a comprehensive Register of Neutrals and ADR Service Providers. This register includes a list of trained and certified individuals who are qualified to serve as neutrals in the ADR process. These individuals have undergone specialized training in dispute resolution and possess the necessary skills to manage conflicts effectively. The register is carefully curated to ensure that all listed neutrals meet the court's standards for professionalism, competence, and impartiality.

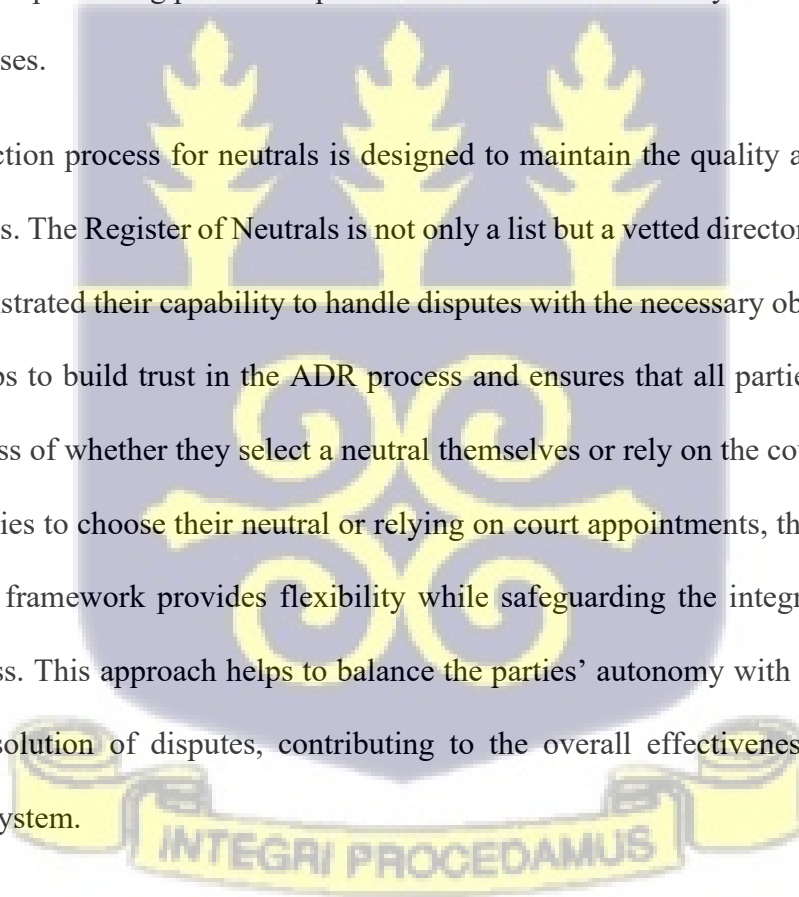
Party Selection of a Neutral: In many cases, the disputing parties are given the opportunity to select a neutral from the Register of Neutrals and ADR Service Providers. This option allows the parties to have a say in who will facilitate their dispute resolution process, which can increase their confidence in the neutrality and fairness of the proceedings.

Court Appointment of a Neutral: If the parties are unable to agree on the selection of a neutral, the court steps in to appoint one from the approved Register. This provision ensures that the ADR process can proceed even if the parties are at an impasse regarding the choice of a neutral. The court's appointment is guided by the same principles of fairness and impartiality, and the selected

neutral is expected to conduct the ADR process in a manner that upholds the integrity of the proceedings.

Use of Neutrals outside the Register: In some instances, parties may wish to select a neutral or ADR service provider who is not listed on the court-approved Register. This could occur if the parties have a pre-existing relationship with a particular mediator or believe that a specific individual has unique expertise that is particularly suited to their dispute. While the court allows this flexibility, it comes with the condition that the parties must bear the cost of the service. This requirement ensures that the court's resources are used for those who choose from the official Register while still permitting parties to opt for alternative neutrals if they are willing to cover the associated expenses.

In sum, the selection process for neutrals is designed to maintain the quality and fairness of the ADR proceedings. The Register of Neutrals is not only a list but a vetted directory of professionals who have demonstrated their capability to handle disputes with the necessary objectivity and skill. This system helps to build trust in the ADR process and ensures that all parties are on an equal footing, regardless of whether they select a neutral themselves or rely on the court's appointment. By allowing parties to choose their neutral or relying on court appointments, the Ghanaian court-connected ADR framework provides flexibility while safeguarding the integrity of the dispute resolution process. This approach helps to balance the parties' autonomy with the need for a fair and efficient resolution of disputes, contributing to the overall effectiveness of ADR in the Ghanaian legal system.



3.5.5 Mediation or Conciliation Proceedings

Depending on the chosen ADR method, the process may involve formal mediation, conciliation or arbitration proceedings. In mediation, the neutral assists the parties in reaching a voluntary agreement, while in arbitration, the neutral renders a binding decision based on the evidence and arguments presented.

As part of the pre-mediation process, the neutral third party facilitates the settlement of the dispute between the parties. The mediation process requires that the mediation session must usually begin with an initial joint session with the parties at which session the role of the mediator is clearly defined. The Mediator may require the parties to submit initial statements. The mediator sets down the ground rules or the mediator allows the parties to set the ground rules. The mediator takes the opportunity to educate the parties on ADR and the reasons for the creation of the outlet within the judicial system. More importantly, the mediator emphasizes the requirement of neutrality, impartiality and confidentiality.

The mediator also explains the concept of caucus to the parties. During the joint sessions, each party must describe how the party views the dispute, the party's understanding of the issues, the party's interests and preferred outcomes. The Mediator shall agree with the parties on the issues for settlement. However, the mediator may hold private sessions known as caucuses with each party to explore options for resolution. During these caucuses, the mediator gathers insights into the individual positions, demands, interests, and objections of each party. When sufficient common ground for agreement has been established, a final joint session must be held for the parties to formulate offers for settlement. In all this process, the Mediator must act as an agent of reality.

3.5.6 Arbitration Process

The arbitration process shall be regulated by the agreement of the parties, rules of the service provider or by the statute. Issues to be resolved at the pre-hearing include the date, time, place, language and the estimated duration of the proceeding. It also includes the need for discovery, production of documents and the establishment of how these shall be done. It must also cover the exchange of witness statement and all related issues in the form of the award, costs, and arbitration fees and any other issues relating to the arbitration.

In an arbitration hearing, a party may be represented by a lawyer or any other person. Unless otherwise agreed by the parties, the hearing shall be in private. The claimant shall first present evidence in support of the claim of the claimant and this shall be followed by the respondent. The arbitrator shall give the parties sufficient notice of any hearing and an opportunity to inspect documents and other property relevant to the dispute. He or she may grant an interim relief that the arbitrator considers necessary for the protection or preservation of property at the request of a party. The arbitrator shall decide the dispute in accordance with law or other considerations agreed by the parties. The award is final and binding on the parties and any person claiming through or under them. More importantly, the arbitrator may refuse to deliver an award to the parties until there is full payment of fees and expenses of the arbitration.

3.5.7 ADR Sessions

Once parties are referred, the parties participate in ADR sessions facilitated by trained Mediators or Arbitrators. These sessions aim to foster communication, identify underlying interests, and explore mutually acceptable solutions to the dispute. The parties fill a consent form signed together with their legal representatives as evidence of their consent to submit to ADR.

In terms of medium of expression, all ADR sessions are conducted in a language determined by the disputants. Just like in open court, a court interpreter is on call however, where the court interpreter cannot satisfy the needs of the parties, the parties shall engage the service of an interpreter at their own cost.

3.5.8 Settlement Agreement

When parties agree to mediation, there are often two outcomes involved. Either clients will settle their differences and reduce the agreement into writing or the parties will fail to settle and the matter will go back to court. Where the parties reach a settlement agreement through mediation, the terms of the oral agreement are reduced into writing. The neutral may assist the parties in drafting the settlement agreement, ensuring that it accurately reflects the parties' intentions and resolves all disputed issues. At the close of the ADR session, the neutral shall destroy all written information gathered at the ADR session in the presence of the parties and return tape recordings, video clips, pictures, receipts maps and other information in permanent form to their owners. The practice of destroying all ADR-gathered information after mediation is a critical practice that preserves the confidentiality, integrity, and effectiveness of the ADR process.

3.5.8 Failure of settlement

Where parties fail to reach a settlement, the neutral shall terminate the proceedings and notify the ADR officer in writing. The ADR Officer shall inform the parties to appear in court at the next hearing date provided.

3.5.9 Protection for Children

Ghana's Court-Connected ADR system prioritizes the protection and welfare of children in family disputes, ensuring that their best interests are upheld. The ADR process shields children from the

emotional stress of conflict by conducting private consultations with the disputing parties, preventing them from witnessing hostilities. It offers flexible solutions tailored to the needs of the children, allowing parents to collaboratively decide on issues like custody and child maintenance. Additionally, agreements reached through ADR are enforceable by the court, ensuring that the child's well-being is legally protected and upheld.

3.6 Conclusion

This chapter has provided a detailed examination of Ghana's Court-Connected Alternative Dispute Resolution (CCADR) system, illustrating its legal framework, organizational structure, and procedural flow. The CCADR system in Ghana is built on a legal foundation, primarily guided by the Alternative Dispute Resolution Act, 2010 (Act 798). This Act integrates ADR mechanisms into the judicial system, offering a structured and efficient process for resolving disputes outside traditional courtroom litigation. By formalizing the roles of judges, ADR practitioners, and disputing parties, the Act ensures that the ADR process is accessible, equitable, and streamlined. Supporting this legal framework are the Constitution of Ghana (1992), the Civil Procedure Rules (C.I. 47), and the 1993 Court Act (Act 459), all of which promote the use of ADR in resolving disputes. Collectively, these legal provisions aim to enhance access to justice, alleviate pressure on the court system, and encourage amicable dispute resolution.

The organizational structure of Ghana's Court-Connected ADR system is designed to ensure effective management and oversight. At the top of the structure is the Chief Justice, who provides critical oversight and guidance for the overall system. The Judicial Service, alongside the ADR Directorate, is responsible for managing the daily operations of the system, including the training, certification, and deployment of ADR practitioners. Courts at all levels from district to high courts play a central role in facilitating the ADR process, with judges, court clerks, and ADR officers

working in tandem to ensure that disputes referred to ADR are managed effectively. This hierarchical and collaborative organizational framework ensures that the ADR process operates smoothly and efficiently within the broader legal system.

The step-by-step process of Ghana's Court-Connected ADR system is both clear and methodical, designed to offer disputing parties an alternative to protracted litigation. The process begins with the initiation of a legal dispute, which may either be referred to ADR by the court or chosen voluntarily by the parties involved. Once ADR is selected as the preferred method, the parties choose a neutral from the court's official register of ADR practitioners. The selected neutral then facilitates the ADR process, whether through mediation, negotiation, or conciliation, guiding the parties toward a mutually agreeable resolution. Once an agreement is reached, it is formalized and can be enforced by the court if necessary, ensuring that the settlement has legal weight and can be upheld. This structured process highlights the efficiency and adaptability of the Court-Connected ADR system in addressing a wide range of disputes.

In conclusion, Ghana's Court-Connected ADR system presents a comprehensive and well-organized mechanism for dispute resolution, grounded in a strong legal framework and supported by a carefully structured organizational model. The system not only alleviates the burden on the judiciary but also fosters a culture of amicable and efficient dispute resolution, offering an accessible and practical alternative to litigation. Through its clear procedural steps, legal backing, and organizational oversight, the CCADR system stands as a significant advancement in the promotion of justice and the resolution of disputes in Ghana.

CHAPTER FOUR

METHODOLOGY

4.1 Introduction

This chapter outlines the research design employed in the study, which was informed by existing gaps in the exploration of Court-Connected Alternative Dispute Resolution (CCADR) among intimate partners in Ghana. It provides a detailed discussion of the research approach and the rationale behind it. Additionally, the chapter addresses key ethical considerations and practical challenges encountered during the research process, offering insights into how these issues were managed to ensure the integrity and validity of the study.

4.2 Study Design

The study adopted a constructivist-interpretivist qualitative research approach, rooted in Edmund Husserl's phenomenology and Wilhelm Dilthey's hermeneutics (Mertens, 2012). This paradigm focuses on understanding how individuals construct and interpret their subjective realities within social and cultural contexts. Constructivism asserts that knowledge is actively built through interactions with the world (Mertens, 2012), while interpretivism emphasizes the importance of understanding personal meanings and interpretations of experiences (Merriam & Tisdell, 2015). Key principles include recognizing the subjectivity of reality, exploring how individuals assign meaning to their experiences, and acknowledging the role of social, cultural, and historical contexts (Denzin & Lincoln, 2018; Creswell, 2014). Reflexivity is crucial, allowing researchers to reflect on their own biases and assumptions, thereby enhancing the credibility of the findings (Geertz, 2008).

The study adopted this approach because it promises in addressing the research questions, emphasizing the co-construction of interpretations between respondents and researchers (Denzin & Lincoln, 2018). Previous ADR studies in Ghana typically evaluated policy effectiveness and procedural outcomes through quantitative methods (Crook, 2012; Amoasi, 2021; Babbie, 2016). This approach will allow for a deeper exploration of individual experiences and perspectives on Court-Connected ADR, prioritizing respondents' voices and views.

4.2.1 Preliminary Research Preparation

Before presenting my research proposal at the Department of Sociology, University of Ghana, I conducted pilot studies at two courts within the Madina and Adenta municipalities, both located in the Greater Accra region. These courts were the Madina Magistrate Court A & B and the Adenta Circuit Court. The primary objective of these visits was to explore the availability of potential research participants for the study. After observing the Court-Connected ADR sections at these courts, I was confident that these locations would provide the participants needed for the actual data collection. The strategic positioning of these courts, one in an urban area and the other in a peri-urban setting further solidified my decision to use them as study sites.

After securing ethical clearance from the University of Ghana's Ethics Committee, I returned to the proposed study sites to begin data collection. At this stage, I was informed by the Court Registrar that I would need additional ethical clearance from the Judicial Service of Ghana (JS) before commencing official data collection.

Guided by this new requirement, I sought advice on obtaining the necessary clearance from the JS's Head Office in Accra. The process involved submitting a formal application, supported by

introductory letters from the University of Ghana, to the Judicial Service. After adhering to the required protocols, I was granted ethical clearance by the JS.

The clearance from the JS, however, necessitated some adjustments to my research plan. Given the sensitive nature of the data I sought to collect, the JS recommended that I assume an internship status with the Alternative Dispute Resolution Secretariat. This position would grant me the official status of a staff member, providing me with greater access to research participants. Initially, the prospect of undertaking an internship posed logistical challenges, particularly due to the location of the institution in central Accra and the associated traffic. However, I quickly recognized that this development was crucial to the success of my research.

Upon reporting to the National ADR Secretariat, I was further advised to operate within the Head Office and was subsequently assigned to two of their most experienced mediators. These mediators conducted their sessions at the ADR Secretariat within the Law Court Complex (LCC) and the Adjabeng District Court, both in Accra. Understudying these experienced professionals became a pivotal component of my research. While their operations were outside the jurisdictions of my initially intended study sites, their extensive experience and the variety of cases they handled at the national level provided me with access to a diverse range of participants from across Ghana.

As a result, I decided to abandon the Madina and Adentan courts as study sites. Instead, I chose to focus on the jurisdictions managed by my supervisors. Out of the numerous court-connected ADR units they operated, I selected two sites that I will further justify in the section on the selection of study sites. These factors ultimately led to the final change in my research locations.

4.3 Study Location and Rationale

The study was conducted in Accra, the capital of Ghana, specifically at two Court-Connected Alternative Dispute Resolution (CCADR) centers: the National Alternative Dispute Resolution Directorate, located within the Law Court Complex on J.E.A Mills High Street, and the Adjabeng District Court in Gbese, both situated within the Accra Metropolis.

Greater Accra was chosen as the study area due to its significant engagement with CCADR services. Statistically, the region stands out with the highest patronage of these services. Of the 108 High Courts in Ghana, 48 are located in Greater Accra, representing 44% of the total (Judicial Service of Ghana, 2017). Furthermore, regional statistics on cases mediated and settled by CCADR courts from 2017 to 2018 show that Greater Accra recorded 853 cases, while the Eastern Region, the second highest, recorded 521 cases, and the Central Region, the third highest, recorded 475 cases. These figures have consistently shown significant margins year after year (Judicial Service of Ghana, 2022).

In Ghana's court structure, all High Courts are connected to ADR programs, which explains why Greater Accra dominates in the use of ADR practices, accounting for about 60% of all CCADR cases in the country (Judicial Service of Ghana, 2017). Fiadjoe (2013) suggests that factors such as urbanization, commercial activity, and the presence of ADR practitioners and institutions contribute to the popularity and effectiveness of CCADR operations in specific regions. Similarly, Abdulai (2017) found that in rural areas like Wa in the Upper West Region, factors such as limited access to legal services, reliance on informal dispute resolution mechanisms, cost considerations, lack of awareness, cultural preferences, and perceptions of the court system result in lower utilization of formal courts for dispute resolution. Therefore, Greater Accra, as the capital city with

its high level of commercial activities and numerous court-connected ADR centers, is naturally positioned as a leader in ADR practices in Ghana.

Within Greater Accra, the ADR Head Office and the Adjabeng District Court were selected for detailed study due to their prominence in ADR practices. The Head Office, in particular, was chosen for several reasons: it serves as a referral point for all 16 regions of Ghana, ensuring a geographically diverse participant pool. It also handles high-profile cases and those exceeding the jurisdictional limits of courts in other regions, making it a hub for complex ADR settlements. Additionally, the Head Office is home to some of the most experienced ADR practitioners and is equipped with modern facilities, including state-of-the-art ADR meeting rooms.

Like other CCADR centers in Ghana, the selected sites offer confidential, private, relatively fast, and cost-effective dispute resolution processes. They are also known for preserving relationships between parties. The primary methods used to resolve disputes at these centers include mediation, arbitration, and customary arbitration (Judicial Service of Ghana, 2017).

4.3.1 Background Study of the Law Court Complex/ The National ADR Directorate

The Law Court Complex (LCC), located on the John Evans Atta-Mills High Street in Accra, (GA-144-8598), stands as a cutting-edge judicial facility. It is the largest aggregation of courts in a single location in Ghana. Within its premises are 44 High Courts operating under four distinct registries: Land Registry, Human Rights Registry, General Jurisdiction Registry and Commercial Registry. Each registry serves a specific purpose: the Land Registry handles matters pertaining to land. The Human Rights Registry addresses industrial and labor disputes, human rights issues, divorce and matrimonial matters, as well as financial and economic crime cases. The General Jurisdiction Registry deals with criminal cases, probate matters, and other miscellaneous issues that fall outside the scope of the other registries. The Commercial Registry is responsible for

managing commercial disputes and cases (Judicial Service of Ghana, 2017). In Ghana's judicial system, there exists a hierarchical structure comprising lower courts, which include the District and Circuit Courts, and superior courts, consisting of the High Court, Court of Appeal, and Supreme Court. Notably, the High Court holds exclusive jurisdiction over both civil and criminal cases, rendering it the sole authority to adjudicate matters across all locations within the country (Quansah, 2011).

To ensure an equitable distribution of caseload among judges, cases from the Land and General Jurisdiction Registries which often experience high volumes of filings are allocated to courts outside of these divisions. The Court Complex utilizes an Electronic Case Distribution System for the electronic assignment of cases. This system streamlines the process of assigning cases and enhances efficiency in managing the workload. Furthermore, the courts are equipped with the Direct Transcription System, allowing court users to access proceedings on the same day a matter is heard. This feature promotes transparency and accessibility within the judicial process by providing timely access to court proceedings (Judicial Service of Ghana, 2017).

The National ADR Secretariat is located on the second floor of the structure. The Secretariat is charged by the Judicial Service to oversee the implementation and management of the day-to-day activities of the ADR Directorate. It is headed by the National ADR Coordinator, who is trained in the theory and practice of ADR (Judicial Service of Ghana, 2018).

The Secretariat, in addition to providing administrative services for the Judicial Service under the ADR program at the National level, doubles as the Court -Annexed ADR center for all the 44 High Courts operating within the complex. To undertake this effectively, it has four ADR meeting rooms that are used under scheduled conferencing (Judicial Service of Ghana, 2017). In addition, the Secretariat serves as the national referral point for all the 16 regions in Ghana, since it has the best

and experienced ADR Practitioners. During the period of data collection between June, 2023 and December, 2023, there were cases referred to the unit from all over Ghana. The Secretariat manages the voluminous referred cases by assigning mediators to the cases based on the technicality of the case and the suitability of the mediator for the job.

This study site was appropriate for a number of reasons: First, The ADR Secretariat plays a critical role in providing comprehensive oversight and coordination of ADR activities across various sectors and institutions. As the central administrative body responsible for ADR in Ghana, it has access to a wealth of data, insights, and experiences related to the implementation and effectiveness of different ADR mechanisms. Research conducted at the ADR Secretariat thus, benefits from access to a wide range of stakeholders, including disputants, mediators, arbitrators, legal practitioners, and policymakers, thereby enriching the depth and breadth of the study.

Also, the site enjoys a strategic geographical location in Ghana, making it easily accessible to a diverse range of stakeholders. Situated in the capital city, it serves as a central hub for parties involved in disputes from across the nation, ensuring geographical diversity of participants. Its proximity to major transportation networks ensures convenient access for individuals, businesses, and government agencies seeking alternative dispute resolution services.

Again, the ADR Secretariat oversees a diverse range of ADR cases and processes, spanning commercial disputes, family matters, community conflicts, and more. By selecting the ADR Secretariat as the study site, researchers can gain access to a rich repository of case studies, procedural guidelines, and best practices in alternative dispute resolution. This diversity enables researchers to explore the applicability and effectiveness of different ADR methodologies across various contexts and legal frameworks.

Moreover, its team of qualified mediators and arbitrators, possess the expertise necessary to handle complex disputes across diverse sectors. Over the years, it has consistently demonstrated its efficacy in facilitating negotiations, mediations, arbitrations, and other forms of ADR. Its reputation for impartiality, professionalism, and adherence to legal standards has earned the trust of both local and international stakeholders (Judicial Service of Ghana, 2017). More importantly, as a referral point for ADR cases from all over Ghana, it afforded the researcher an opportunity to access disputants from all over Ghana ensuring geographical diversity.

In conclusion, the selection of the ADR Secretariat as one of the study sites for this current research is justified by its role in providing comprehensive oversight and coordination of ADR activities, access to diverse ADR cases and processes (referral point for Ghana) indirectly ensuring geographical diversity of participants, facilitation of stakeholder engagement and collaboration, and evaluation of institutional performance and impact. Conducting the research at the ADR Secretariat contributes to the advancement of knowledge and practice in alternative dispute resolution, ultimately enhancing access to justice and promoting peaceful resolution of intimate partner conflicts in Ghana.

4.3.2 Background Study on Adjabeng District Court

The Adjabeng District Court is located in Accra, the capital city of Ghana. Specifically, it is situated within the Central Business District (CBD) of Accra, close to the Kantamanto Market. It handles civil and criminal cases within its jurisdiction and also plays a significant role in the implementation of Court-Connected Alternative Dispute Resolution (CCADR) services. The establishment of the District Court traces back to Ghana's post-independence legal reforms. District courts like Adjabeng were created to decentralize judicial authority, improve access to justice, and address legal matters at the local level.

Initially, the court was situated within the premises of Kingsway, a well-known location in Accra, the capital city of Ghana. Kingsway was historically a prominent chain of department stores and supermarkets in Ghana, with its roots in the colonial era. However, during her judicial tour in 2018, the Chief Justice, Justice Sophia Akuffo, deemed the infrastructure inadequate and consequently closed down the court. Subsequently, a new court building was erected within the CBD. Following its completion, the operations of the Adjabeng court were relocated to the new facility to ensure uninterrupted adjudication in January 2023.



The CBD is home to a variety of businesses ranging from large retail stores and wholesale shops to informal markets selling textiles, electronics, foodstuffs, and secondhand goods. Markets such as *Makola* and *Kantamanto* are vital commercial nodes in the district, drawing traders and customers from across the city and beyond. This makes the area intense economic activity, creating opportunities for both formal and informal employment. The presence of banks, government offices, and corporate headquarters within the CBD reflects its status as a significant administrative center. More importantly, the CBD is surrounded by several communities and neighborhoods that play significant roles in the socio-economic landscape of the city. Some of these surrounding communities include: Jamestown, situated to the southwest of the CBD. It is one of Accra's oldest districts, characterized by its colonial-era architecture, fishing activities, and historic landmarks

like the Jamestown Lighthouse. To the northwest of the CBD lies Agbogbloshie, known for its large market and as a hub for informal electronic waste recycling. It is home to many traders and low-income residents. The bustling nature of the CBD fosters a melting pot of cultures, reflecting Ghana's demographic diversity.

Socially, the CBD hosts a diverse population of traders, laborers, office workers, and street vendors. The majority of traders and informal workers are from low to middle-income groups, many of whom rely on daily sales to sustain their livelihoods. These economic activities play a significant role in shaping the social dynamics of the community, providing livelihoods and opportunities for residents. Ultimately, it makes a home to a diverse population representing various ethnicities, religions, and socio-economic backgrounds. Social interactions are thus, shaped by networks of kinship, mutual aid, and community solidarity, fostering a sense of belonging and collective identity among residents and traders. However, with high levels of commercial activity, the area is also marked by socio-economic challenges such as congestion, crime, and disputes over trade and land right. (African Urbanism, 2013).

This study site was chosen for a number of reasons: the Adjabeng court is the second leading court in Accra for ADR patronage (Judicial Service Report, 2017). This provides ample opportunities to gather rich and diverse data enabling in-depth exploration and analysis, leading to comprehensive insights into the phenomenon under investigation. Again, the concentration of the phenomenon increases the likelihood of capturing authentic and representative instances, thus bolstering the credibility of the research outcomes. A study site known for its prominence in the phenomenon of interest is likely to attract attention from scholars, practitioners, and policymakers. This heightened interest facilitates collaboration, knowledge exchange, and dissemination of research findings,

contributing to greater impact and visibility for the study (African Urbanism, 2013). For instance, during the data collection, I came across researchers in similar positions.

Secondly, the location offers a unique blend of urban and traditional influences that may result in an atmosphere of legal pluralism in pursuit of the justice system. The traditional and urban blend often operate under legal systems that recognize multiple sources of law, including customary or religious law alongside formal state law. The use of Court-connected ADR thus integrates these different legal frameworks to ensure alignment with the unique socio-cultural context in addressing the specific needs and preferences of the communities involved (Amoasi, 2021).

Within the vicinity of the court, is the Kantamanto Market, the largest second-hand clothing market in Ghana. To contextualize the scale of this market's operations, approximately 3.4 million kilograms (equivalent to around 15 million items) of second-hand clothing, typically donated, are estimated to arrive at the Kantamanto market from various global sources every week (Amanor, 2018; Manieson & Ferrero-Regis, 2023). The market's second-hand clothing trade acts as a transient economic lifeline for more than 40,000 traders, with 40% of them being women (Oteng-Ababio et al., 2015). These factors intersect to create a vibrant and dynamic community with its own unique identity and character (African Urbanism, 2013).

The court's presence ensures that legal services are accessible to the community and business operations. This accessibility facilitates the resolution of disputes, contract enforcement, and other legal matters for individuals and businesses within the area. At the same time, the heavy patronage of the court services, result in increased caseloads justifying the rapid referral of cases to ADR to reduce case load. Researching ADR activities at the Adjabeng District Court, thus, provide insights into how traditional practices intersect with modern legal processes.

Finally, despite efforts to enhance access to justice in Ghana, disparities still persist, particularly among socio-economically marginalized communities (Appiagyei-Atua, 2013). Researching ADR activities at the Adjabeng District Court allows for an assessment of how ADR mechanisms contribute to improving access to justice for vulnerable populations, including the economically disadvantaged, women, and minority groups since that site has a significant number of such population (Aryeetey and Ansong, 2017).

In summary, selecting the Adjabeng District Court in Accra as the second research study site for the phenomenon under study in Ghana offered a compelling socio-economic rationale. By examining ADR activities within the context of urban dynamics, socio-economic diversity, access to justice, economic implications, and policy relevance, I generated valuable knowledge and contribution to the advancement of scholarship and practice in the field of dispute resolution and socio-economic development in Ghana.

4.4 Target Population

The target population comprise a diverse cohort of individuals whose experiences, perspectives, and narratives serve as the focal point of inquiry (Creswell, 2014). According to Kothari (2004), it constitutes the entire aggregation of respondents that meet the designated criteria, comprising individuals, occurrences, documents/ records or even a whole group. This section discusses the selected population.

Following from the discussions above, the target population for the study constituted all persons and individuals involved with the Court -Connected Alternative Dispute Resolution Unit at the two study sites. These include: the Court Registrars, Judicial officers, Mediators, Arbitrators, Lawyers and the Disputants. Specifically, the disputants were the parties who had applied to court

to contest claims. Upon the request/advice of the judge or by their own initiative, had agreed to the use of CCADR as their dispute resolution method. Specifically, such category of disputants comprised cases in which the parties had been involved in an intimate relationship beyond 5 years. The parties can be cohabiting partners, dissatisfied spouses with marital problems, separated spouses' under-going divorce, and divorced couples contesting varied claims.

4.5 Recruitment of Study Participants

The recruitment of study participants is a pivotal aspect of qualitative research, playing a fundamental role in shaping the depth and breadth of insights gleaned from the study. Denzin and Lincoln (2011) explain that qualitative sample size may be best determined by the time allotted, resources available and the study's objective. Inherent to these assertions is the recognition that the richness of data is equally tied to the diversity and authenticity of participant's experiences (Patton, 2002).

The recruitment process commenced by establishing partnerships with relevant judicial authorities to gain access to potential participants. Upon obtaining clearance from the Judicial Service of Ghana to the ADR Secretariat for data collection, I was granted a three months internship contract with the Secretariat. That opportunity granted me an insider status which enabled me to gain understanding of the institution's operational dynamics, providing insights into its day-to-day functions. More importantly, it brought me directly into contact with potential participants since I was part of the mediating team as an intern mediator. Through observation, I gained firsthand knowledge of how cases are referred, managed, and resolved, thus grasping the intricate workflow and processes of the ADR center.

Recruitment of the study's participants was categorized in two stages, Observational stage, followed by Purposive selection of the participants in the second stage. Participants' selection in the second stage was guided by purposive criterion sampling technique. This involves the researcher establishing specific criteria for participant's selection in a study. This sampling method strengthens quality assurance as the data is sourced from reliable individuals (Patton, 1999).

4.5.1 Observational Stage

The first stage of participant recruitment began with the careful selection of cases that met specific criteria for observation. At the ADR Secretariat, it is standard practice for all cases scheduled for mediation to be reviewed by mediators beforehand. This review process involves examining the court dockets or case files, which provide essential information about the parties involved, such as their socio-demographics (age, relationship status, duration of the relationship, children and their ages, occupation etc), the nature of the dispute, and the reliefs they seek. This preliminary review gives mediators an understanding of the case before the parties appears for the mediation session.

For this study, I focused on cases where the parties had been in a romantic relationship for more than five years and had appeared before a judge, opting for collaborative dispute resolution at the CCADR. The selection criteria were based primarily on the nature of the relationship between the litigants. The court dockets were invaluable in identifying such cases, providing the necessary details to ensure that the chosen cases met the study's requirements. Once identified, these cases were carefully selected for observation during their mediation sessions. I assigned pseudonyms to the cases in my record book and observed them from the beginning of the mediation process to the conclusion, regardless of how long the case took, including those that were not settled and were referred back to court.

During the observational stage, I meticulously noted both verbal and non-verbal cues from the parties, as well as any other relevant information that piqued my interest in the mediation process. For instance, I noted both verbal and non-verbal cues from the parties, such as tone of voice, choice of words, facial expressions, and body language, which provided deeper insights into their emotions, power dynamics, and commitment to resolving the issues at hand. Additionally, I paid close attention to the actions and strategies employed by the mediators, including their choice of language, questioning techniques, ability to manage power imbalances, and efforts to maintain neutrality. I observed how the mediators facilitated dialogue, reframed contentious points, and employed de-escalation tactics to promote a constructive atmosphere. Beyond verbal interactions, I also took note of non-verbal cues from the mediators, such as their posture, eye contact, and gestures, which subtly influenced the dynamics of the session. I recorded any shifts in the participants' engagement and responsiveness, gauging how various mediation techniques affected their willingness to communicate openly or their resistance to compromise. Furthermore, I documented any external factors that shaped the mediation process, such as the physical setting (the court complex with its ultra-modern mediation room and the Adjabeng District Court), seating arrangements, and timing of breaks, which could have a psychological impact on the parties' comfort levels and engagement.

These observations were crucial as the first step leading to the final recruitment process. This proactive approach ensured that relevant cases were first identified and closely monitored, offering valuable insights into the dynamics of romantic relationship disputes undergoing mediation.

In the mediation process, participants typically go through three key stages: preparatory, mediating, and post-mediation. If the parties successfully reach a settlement during the post-

mediation stage, the terms of the agreement are documented for adoption by the judge. CCADR centers adhere to strict timelines, requiring that if a settlement is not reached within 30 days, the mediator has the authority to terminate the proceedings. Following a successful settlement, I privately approached the clients who met the inclusion criteria during the observation period to discuss their potential participation in the study.

4.5.2 Actual Recruitment Stage

After a case has been successfully resolved and the settlement agreement drafted, the next step involves setting a date for the parties to appear before the judge for the formal adoption of the agreement. I assisted the parties in coordinating with the ADR office to schedule this court appearance. Once the parties have completed this process and are officially discharged from the ADR unit, I took the opportunity to approach them for a private conversation.

Beginning with sincere congratulations, I expressed my gratitude for their commitment to the ADR process. I then reintroduced myself, clearly stating my role as a student researcher and outlining the purpose of my study. With transparency and respect, I inquire whether they would be interested in participating in the research. Recognizing the importance of their consent, I ensured that the parties felt fully empowered to make an informed decision. For those who agreed to participate, I collected their contact information to arrange interview appointments, doing so with the utmost respect for their privacy and willingness to contribute further to the study.

It is important to note that during the observation stage, I took detailed notes on each potential couple participant. For those who agreed to participate, their interview data were linked with their

observational data, providing a more comprehensive understanding of their experiences. In total, 14 couples, translating into 28 individual participants, were selected for the study.

In qualitative research, one common challenge is the concern about the generalizability of findings, particularly when dealing with small sample sizes (Boddy, 2016). However, this issue can be addressed through the concept of saturation, the point at which no new information or themes emerge from the data (Guest et al., 2017). Saturation is achieved when the data collected is sufficiently rich, rather than merely voluminous. While there is debate over whether true data redundancy or saturation can be fully attained since additional interviews might always reveal new insights (Braun & Clarke, 2021), researchers typically conclude data collection when they reasonably believe that saturation has been reached. At this point, they move on to the subsequent stage of data analysis.

4.5.3 Challenges and Mitigation Strategies

Recruiting study participants among litigants at the court posed a series of unique challenges, encompassing concerns about coercion, confidentiality, power dynamics, and accessibility. One significant challenge was with regards to the emotional distress experienced by disputants throughout their legal proceedings. More than half of the participants (7 of the cases) had their dispute referred to ADR after the first court hearing. However, even such participants were frustrated with the length of time it took before the first court hearing. On average, it took a minimum of three months after filing the case before the first court hearing. These and other personal discomforts increased participants' emotional distress with the system.

The emotional discomfort often hindered their willingness or ability to engage in research activities. Navigating these complex emotional states while providing appropriate support proved to be a daunting task.

Another major challenge also concerned issues of power dynamics and coercion. Recognizing my dual role as a researcher and a mediator, I was acutely aware of the potential for perceived coercion. Being part of the mediating team that worked in resolving the dispute placed me in a double position of power. Even where participants agreed to grant interviews, they were cautious on what to say as some felt I would relay the information to my co-mediators, especially where the information was against the mediating team. I had to constantly remind participants of my real status to sustain the trust.

Ensuring voluntary yet continued participation required transparent communication and reassurances of my status as a genuine student and not as a mediator. The process was also balanced with an assurance of confidentiality with their information and the right to withdraw at any stage from the study without any repercussions. I had to balance my role as a supportive mediator with the demands of recruiting participants for research, often navigating participants' fluctuating emotional states.

To tackle these and other challenges effectively, transparent communication channels were established with relevant stakeholders. This ensured clarity and openness regarding the research process and objectives. Additionally, concerted efforts were made to cultivate trust and rapport with potential participants, creating a conducive environment for their participation. Till date, I have become friends with some of the participants.

4.6 Data collection and Procedure

Irrespective of the philosophical standpoint adopted by the researcher and the chosen data collection method in qualitative studies (e.g., focus groups, one-to-one interviews etc.), the process

will inevitably result in the generation of substantial amounts of data (Patton, 1990). The study used three data collection strategies: literature review (secondary data), participants interviews and observations (primary data).

4.6.1 Review of Related Literature

The literature review was conducted systematically, aiming to identify, organize, and analyze documents pertaining to three interconnected themes: (1) the broader understanding of Alternative Dispute Resolution (ADR) within its historical context, (2) the diverse range of ADR approaches addressing the underlying reasons intimate partners engage ADR globally, (3) Outcomes of ADR responses to intimate partner conflict and (4) lived experiences of intimate partner's use of ADR globally.

Under the first theme, literature exploring the sociological, legal, and historical context and origins of ADR practices was identified. This involved a thorough search of databases and journals specializing in meta-analyses and literature reviews. Search terms included alternative dispute resolution, mediation, reconciliation, village court(s), customary court(s), and restorative justice.

For the second theme, both primary and secondary sources detailing ADR methods for handling intimate partner conflict cases across various geographical contexts were gathered. Similarly, for the third theme, sources including evaluations, academic articles, sociological and legal studies, and meta-evaluations critiquing or analyzing ADR outcomes in cases of intimate partner conflict were analyzed.

Various databases and journals such as PubMed, JSTOR, Science Direct, Google Scholar, Scopus, ResearchGate and Project Muse etc. were utilized for the literature review. Search terms were

tailored to include combinations of ADR-related terms with keywords like intimate partner conflict, restorative justice within the context of intimate dispute, alternative dispute resolution and romantic conflict, ADR compatibility in domestic dispute etc.

Additionally, the study supplemented the literature findings with insights obtained through participant interviews, ensuring a comprehensive understanding of ADR practices in addressing intimate partner dispute.

4.6.2 Participants' Interview

The data collection process was meticulously crafted to capture the diverse perspectives, experiences, and insights of participants, thereby enabling a deeper understanding of the phenomenon under study. Throughout this phase, ethical considerations were of utmost importance, with strict measures in place to ensure confidentiality, voluntary participation, and informed consent.

In June 2023, I began my internship with the Judicial Service of Ghana, specifically at the Alternative Dispute Resolution Secretariat located within the Court Complex in Accra. The internship was invaluable, granting me the status of a staff member with unrestricted access to a diverse range of participants. This status not only facilitated access but also fostered trust and confidence among participants, significantly aiding in the recruitment process for the study.

I was assigned to two experienced mediators who conducted sessions at various locations, including the Law Court Complex, the Family and Juvenile Court within the Supreme Court of Ghana, the Adjabeng District Court in the central business center of Accra, and several other court-

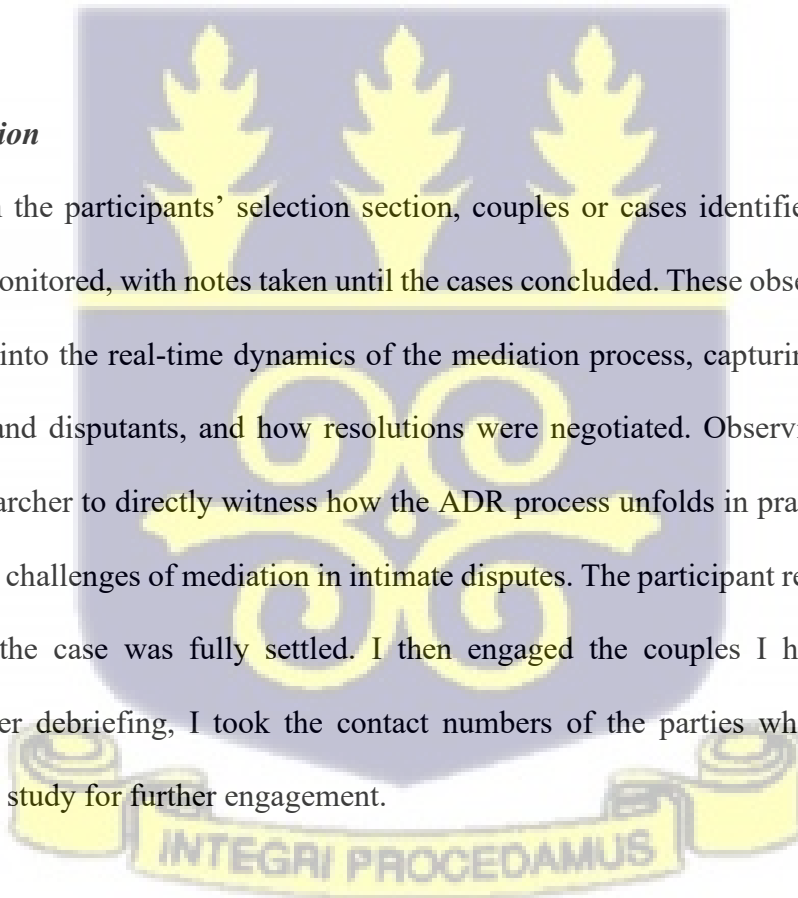
connected centers within Greater Accra. For a more focused study, I selected two primary sites for participant recruitment, as previously outlined in the study site section.

As an intern mediator, I was part of the mediation team, responsible for assisting clients in filling out the consent forms required by the CCADR procedure. These forms serve as proof of the parties' consent to mediation at the ADR unit. Once the forms were completed, the mediator would introduce themselves and the co-mediators present before proceeding with the session.

The data collection process involved two main methods: observation of the mediation sessions and interviews with the parties after the mediation process.

4.6.2.1 Observation

As mentioned in the participants' selection section, couples or cases identified for observation were carefully monitored, with notes taken until the cases concluded. These observations provided valuable insight into the real-time dynamics of the mediation process, capturing the behavior of both mediators and disputants, and how resolutions were negotiated. Observing these sessions allowed the researcher to directly witness how the ADR process unfolds in practice, highlighting the strengths and challenges of mediation in intimate disputes. The participant recruitment process continued after the case was fully settled. I then engaged the couples I had earmarked for observation. After debriefing, I took the contact numbers of the parties who were willing to participate in the study for further engagement.



4.6.2.2 Interview Procedure

Within a week of the settlement, I contacted the participants for familiarization purposes, aiming to build rapport and gain their trust and confidence. The second call occurred within the following week, during which, after exchanging pleasantries, I requested an interview appointment with the participant. Although the couples were treated as a single case during the observation, interviews were conducted with the parties individually to capture both perspectives. Interview schedules were booked at different times, based on the participants' preferences. The interviews were conducted either in person or via telephone depending on participant's choice.

On the day of the interview, the study's objectives were clearly explained to the participant. For those requiring additional information, further clarifications were provided, ensuring informed consent and voluntary participation. Written consent was then obtained, and participants were briefed on their right to withdraw from the study at any time without penalty. Confidentiality and anonymity were guaranteed through the use of pseudonyms. Given the sensitive nature of the study, psychological support was offered through a standby psychologist available to participants throughout the data collection stage. However, only one participant expressed interest in this service, requesting support for her teenage son, who had developed emotional difficulties due to his parents' recent divorce.

Semi-structured interviews were conducted using an interview guide designed in six main sections (A-F). Section A gathered participants' socio-demographic information, while Section B focused on the nature of the dispute between the couples. Section C explored the processes involved in utilizing Ghana's Court-Connected ADR (CCADR), and Section D examined the reasons why intimate partners chose ADR. Section E collected data on the outcomes of ADR usage among

intimate partners, and the final section, F, delved into their lived experiences with ADR in resolving disputes (see Appendix).

Given that I had previously attended the mediation sessions and gathered socio-demographic details during the case reviews, I skipped the first two sections to allow more time for the subsequent parts of the interview. However, I ensured that I provided a summary of the dispute for the participant to confirm or adjust before proceeding to Section C. This approach helped reduce tension and allowed both the participant and myself to feel more relaxed, creating a comfortable environment for the conversation ahead.

Due to time constraints and concerns about confidentiality, most interviews were conducted via telephone. Participants who initially requested face-to-face interviews often changed their minds at the last minute and opted for telephone interviews instead. A few of the participants had the interviews in person at locations they were comfortable with. All interviews, both in person and online were scheduled at the convenience of the participants, typically occurring between 10:00 a.m. and 5:00 p.m. With the exception of four participants, all interviews were conducted in English. The average duration of the interviews ranged from 50 to 90 minutes, consistent with previous studies where phenomenological interviews lasted less than an hour. Each interview was completed in a single session. With the participants' permission, all interviews were recorded. The field notes made during the observational period were linked with the interviews to facilitate reflection on the interview process. Participants often referred to comments, gestures, and revelations from the mediation sessions to support their claims.

According to Morgan et al., (2013), there are several approaches to interviewing families and couples, which can be either simultaneous (diarchy) or sequential, depending on the researcher's epistemological stance. Both approaches have their merits and drawbacks. Sequential couple

interviews offer a dynamic and nuanced approach to exploring couple relationships over time, providing insights into the temporal dynamics, developmental trajectories, and contextual nuances shaping relational experiences (Braun & Clarke, 2013). Based on these considerations, the sequential approach was adopted for this study. Additionally, the simultaneous method is most effective when couples are still together. In this project, however, all the couples had fallen out of touch and considered themselves separated. Some had even divorced under customary law and could no longer be referred to as couples.

4.7 Data Analysis

Qualitative data analysis involves engaging with the data by organizing it, breaking it into manageable segments, synthesizing information, identifying patterns, uncovering significant insights, and determining what to communicate to others (Bogdan & Biklen, 1997). All the 28 participants interviews were transcribed, the interviews in the local language were translated into English before transcribing.

4.7.1 Approach and Tools

For the analysis of interview transcripts and observational data, a qualitative approach was adopted using NVivo, a powerful software tool designed for managing and analyzing qualitative data (Silver & Lewins, 2014; Jackson & Brazeley, 2019). This software enabled the organization, coding, and systematic examination of themes and patterns that emerged from the interviews and field observations, ensuring a thorough analysis aligned with the research objectives.

4.7.2 Coding Process

All the 28 interviews were transcribed. The analysis commenced with the importation of all interview transcripts and field notes into NVivo. A meticulous reading and re-reading of each transcript was conducted to gain a deep understanding of the content. This was followed by open coding, where initial codes were assigned to segments of text that represented distinct ideas, statements, or themes relevant to the research questions (Maher et al., 2018). For instance, codes like "empowerment," "control over process," "marginalization," and "access to justice" were identified, particularly in exploring the role of ADR in empowering marginalized individuals. As the coding process progressed, similar codes were grouped into broader categories or themes. For example, codes related to "empowerment" and "control over process" were consolidated under the broader theme of "Empowerment through ADR." This iterative process involved constant comparison and refinement of the codes and themes to ensure they accurately captured the essence of the data and aligned with the study's objectives.

4.7.3 Themes Development

Using NVivo's query and visualization tools, the frequency and relationships between codes were analyzed to uncover several dominant themes, each offering deeper insights into the research focus (Castleberry & Nolen, 2018). For instance, some of the key themes include: Empowerment through ADR: A key theme that emerged was the sense of empowerment participants experienced through ADR. Many felt that ADR gave them a voice and greater control over their dispute resolution processes. For instance, Madam Efua, a 45-year-old seamstress, remarked, "The judge referred us to ADR because she saw that resolving it ourselves would be better. I felt more in control, unlike in the courtroom where everything is so formal and intimidating." This sentiment

was echoed by other participants, suggesting that ADR can democratize access to justice by creating a less formal and more participant-driven process.

Therapeutic Jurisprudence: Another significant theme was the emotional relief that ADR provided. Participants described the process as more human-centered and less adversarial compared to traditional court proceedings. This was especially beneficial for intimate partner disputes, where emotions ran high. For example, one participant shared that mediation allowed for a calm dialogue, which helped rebuild trust and understanding, something they felt would not have been possible in a court setting.

Satisfaction with Outcomes: The data also revealed a strong theme around the satisfaction with the outcomes of ADR. Many participants expressed that they were more satisfied with the solutions they had crafted together with the other party, as opposed to a judge-imposed ruling. This personalized approach was seen as more meaningful and sustainable.

Challenges of Limited Legal Agency: Despite the positive aspects, the theme of limited legal agency also surfaced. Some participants, especially those with lower socio-economic status, felt pressured into settlements due to power imbalances, raising concerns about fairness. This theme underscores the need for safeguards within ADR to protect vulnerable parties.

These themes collectively illustrate the nuanced and multifaceted role of ADR in empowering participants, providing therapeutic relief, fostering satisfaction with outcomes, while also raising important questions about power dynamics and fairness.

4.7.4 Observational Data

Field observations were analyzed in conjunction with interview data using NVivo. Observational notes were coded similarly, focusing on key behaviors, interactions, and contextual factors that

influenced ADR processes. These observations enriched the interview findings, providing a more nuanced understanding of how ADR functions in practice. For example, during one mediation session, I observed that participants who were initially hesitant became more engaged as they realized their significant role in the proceedings, reinforcing the theme of empowerment through ADR.

4.7.8 Interpretation and Integration

The integration of interview and observational data facilitated a comprehensive analysis of the research questions. Themes identified in the interviews were cross-validated with field observations, ensuring that the findings were robust and reflective of the real-world application of ADR. NVivo's capabilities in managing and visualizing the data were instrumental in this process, providing clear insights into how ADR outcomes align with the objective of empowering marginalized individuals, navigating cultural and social norms, addressing issues of limited legal agency etc.

In conclusion, the systematic analysis of interviews and observations using NVivo revealed the multifaceted role of ADR in intimate disputes. The key themes that emerged were explored in depth in the subsequent chapters of this study, supported by relevant participant quotes to illustrate and clarify the findings. These themes were also examined in relation to existing literature and the study's theoretical framework, providing a comprehensive understanding of the impact and nuances of ADR within the research context.

4.8 Research Ethical Considerations

Scientific research work like all human activities, is governed by individual, community and social values. Research ethics involve requirements on daily work, the protection of dignity of

subjects and the publication of the information in the research (Denzin & Lincoln, 2008). Adhering to research ethics guidelines is crucial for conducting a successful study while safeguarding against potential harm, utilizing appropriate ethical principles to uphold the rights and privacy of participants (Yin, 2003; Zhang & Liu, 2018).

The research ethics protocols ensured that participants engaged voluntarily, without coercion, with strict confidentiality maintained regarding their privacy and communications. Moreover, the researcher upheld the interests of the public, government, and society by enabling participants to freely express their actions, opinions, and experiences regarding the challenges and issues related to the use of Court-Connected Alternative Dispute Resolution practices (Yin, 2003). Prior to data collection, this study meticulously adhered to relevant regulations, guidelines, as well as institutional and governmental policies to preempt any potential issues.

Before commencing this study, I sought ethical approval from the University of Ghana Ethics Committee of Humanities (ECCH) which sees to it that issues regarding ethics are not breached. This identified protocol number was granted ECH 221/22–23. Subsequently, authorization was obtained from the Judicial Service of Ghana to engage with litigants at the alternative dispute resolution unit of the study sites.

Ethical considerations were paramount throughout the recruitment process, particularly given the vulnerable nature of individuals involved in legal disputes. Informed consent procedures were rigorously adhered. Participants were debriefed regarding the study objectives, procedures, and potential risks and benefits of participation. Emphasis was placed on ensuring voluntary participation and safeguarding participant's confidentiality and anonymity to mitigate potential adverse consequences stemming from their involvement in the research.

Upon encountering potential participants at the court, I explained the study's objectives and provided detailed information to address any inquiries or concerns, ensuring informed consent and voluntary participation. Written consent was then obtained from each participant, accompanied by an assurance of their right to withdraw from the study at any point without repercussions on the day of the interview.

Moreover, participants were guaranteed confidentiality and anonymity through the adoption of pseudonyms. Information gathered for this study was handled with strict confidentiality, under password protection. The information was used exclusively for the research purposes and would be destroyed after completion of my studies. Psychological support was made available throughout the data collection stage, although it was not utilized directly by any participants. Interviews, conducted were scheduled at the convenience of the participants, either in person or via telephone. The research study upheld ethical standards and values such as trust, mutual respect, fairness, accountability, respect for social values, and prevention of harm and discrimination against participants, thereby promoting accuracy and minimizing errors during data collection and analysis (Denzin and Lincoln, 1998).

4. 8.1 Methodological and Ethical Justification for Initial Non-Participant Observation

In the first phase of this study, I undertook non-participant observation of mediation proceedings within the Court-Connected ADR environment to gain contextual understanding before engaging participants directly. Although clients were not informed that the observation was for research, this approach was ethically and methodologically justified. The sessions occurred in an institutional, semi-public setting under judicial oversight, and my focus was strictly on procedural conduct such as mediator techniques, communication patterns, and participant engagement rather

than personal or identifying information. Methodologically, this stage functioned as *contextual immersion*, consistent with ethnographic and phenomenological principles that advocate preliminary observation to grasp institutional dynamics before interviews. Ethically, the observation posed minimal risk, maintained anonymity, and did not interfere with proceedings. Full ethical clearance was obtained from the University's Ethics Committee, and all subsequent interviews were conducted under informed consent. This approach aligns with established scholarship recognizing that limited covert or naturalistic observation may be permissible when it captures authentic behavior in public institutional contexts and protects participants from harm (Burgess, 1984; Hammersley & Atkinson, 2019; Silverman, 2017).

4.9 Reflexive Analysis of the Research Process

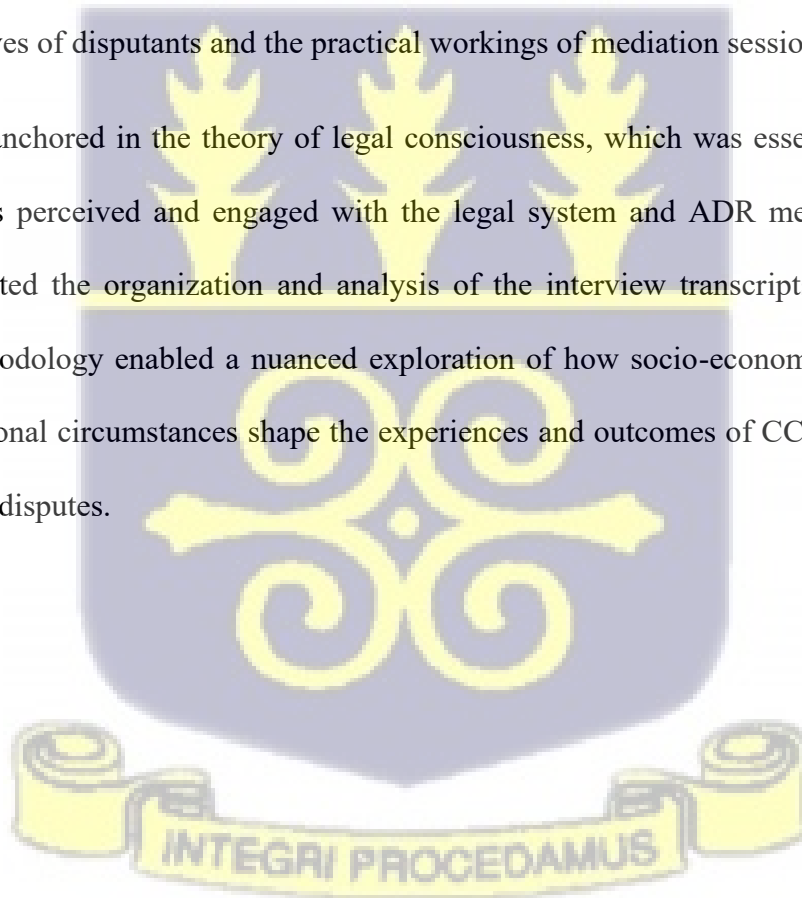
Reflexive analysis acknowledges the researcher's positionality and examines how personal background, experiences, and biases influence the research process and outcomes (Mauthner & Doucet (2003).

This reflexive analysis highlights the researcher's positionality and its impact on the study of Court-Connected Alternative Dispute Resolution (CCADR) in intimate partner disputes in Ghana. My background in sociology and as an intern mediator had no influence on the approach. Ethical challenges, particularly around participant's recruitment in a sensitive legal setting, required clear communication and assurances of confidentiality. Observations of mediation sessions enriched the data, providing deeper insights when combined with interview responses. Reflexivity was also key in the data analysis process, ensuring that themes accurately reflected participants' experiences. Overall, the researcher's self-awareness and adaptability enhanced the credibility and depth of the study.

4.10 Conclusion

This study employed a qualitative research methodology to explore the use of Court-Connected Alternative Dispute Resolution (CCADR) in resolving intimate partner disputes in Ghana. A constructivist approach guided the research, allowing for an in-depth understanding of participants' lived experiences and the complex dynamics of intimate conflict resolution. Semi-structured interviews were conducted with 28 participants who had undergone the ADR process. Additionally, observations of 14 couple mediation sessions were carried out at the ADR Secretariat located in the Law Court Complex and the Adjabeng District Court, both in Accra. This combination of interviews and observation provided a rich, detailed dataset, capturing both the personal narratives of disputants and the practical workings of mediation sessions.

The study was anchored in the theory of legal consciousness, which was essential in analyzing how participants perceived and engaged with the legal system and ADR mechanisms. NVivo software facilitated the organization and analysis of the interview transcripts and observation notes. The methodology enabled a nuanced exploration of how socio-economic status, cultural norms, and personal circumstances shape the experiences and outcomes of CCADR in resolving intimate partner disputes.



CHAPTER FIVE

BACKGROUND OF RESPONDENTS AND THE CASES

5.1 Introduction

This chapter analyzes the socio-demographic characteristics of the respondents who utilized CCADR to resolve their disputes, focusing on factors such as age, gender, education, and socio-economic status. Understanding these characteristics provide insight into the patterns of ADR usage, highlighting the extent to which socio-demographic factors shape access to and outcomes of ADR processes in intimate disputes (Coben, 2014). This analysis also underscores the intersection of personal circumstances with the broader legal and cultural frameworks influencing dispute resolution in intimate relationships (Moore, 2014).

5.2 Socio-Demographic Characteristics of Participants

This section covers demographic profiles, educational background, occupations, religious affiliations, living arrangements, relationship status, relationship duration, and the number of children involved. These variables help explore the intricate relationship between individual characteristics and the disputes under investigation, offering a comprehensive understanding of the context in which these disputes arise and are resolved.

5.3 Research Participants

The study involved 28 participants, comprising 14 couples with an equal number of males and females. Ages ranged from 30 to 63 years, with the average age being 48 for males and 44 for females. Educational levels varied from primary to tertiary, and all but one couple were Christian. The number of children per couple ranged from none to five, with relationships lasting between 8 and 35 years. Below is a tabular representation of the demography of the research participants.

Case Number	ID	Gender	Age	Education	Occupation	Marital Status	Religion	Issues involved	Length of Relationship
1	001	Male	45	Secondary School	Trader	Divorced	Muslim	3	12 Years
1	002	Female	39	J SS	Trader	Divorced	Muslim	3	12 Years
2	003	Male	50	Tertiary	Civil servant	Ex-Cohabitee	Christian	0	17 Years
2	004	Female	48	Primary	Chop Bar Operator	Ex-Cohabitees	Christian	0	17 Years
3	005	Male	57	Tertiary	Insurance Officer	Separated	Christian	0	23 Years
3	006	Female	54	Vocational	Bead Making	Separated	Christian	0	23 Years
4	007	Male	63	Tertiary	Military Officer	Separated	Christian	3	35 years
4	008	Female	61	Tertiary	Education Director	Separated	Christian	3	35 years
5	009	Male	45	Tertiary	Engineer	Divorced	Christian	4	17years
5	010	Female	43	Secondary School	Seamstress	Divorced	Christian	4	17 years
6	011	Male	56	Secondary School	Trader	Separated	Christian	2	21 years
6	012	Female	51	JHS	Trader	Separated	Christian	2	21 years
7	013	Male	48	Primary	Car parts dealer	Separated	Christian	1	19 years
7	014	Female	44	Secondary School	Seamstress	Separated	Christian	1	19 years

8	015	Male	35	JHS	Carpenter	Ex-Cohabitees	Christian	2	8 years
8	016	Female	30	JHS	Trader	Ex-Cohabitees	Christian	2	8years
9	017	Male	36	JHS	Commercial Driver	Separated	Christian	2	10 years
9	018	Female	33	SHS	Hairstylist	Separated	Christian	2	10 years
10	019	Male	39	SHS	Commercial Driver	Separated	Christian	0	11 years
10	020	Female	36	JHS	Seamstress	Separated	Christian	0	11 years
11	021	Male	53	JHS	Trader	Ex-cohabitees	Christian	2	17 years
11	022	Female	48	Vocational	Trader	Ex-cohabitees	Christian	2	17 years
12	023	Male	54	Tertiary	Teacher	Separated	Christian	5	23
12	024	Female	50	Tertiary	Teacher	Separated	Christian	5	23
13	025	Male	50	Tertiary	Civil Servant	Separated	Christian	4	17 years
13	026	Female	46	Tertiary	Proprietress	Separated	Christian	4	17 years
14	027	Male	51	Tertiary	Surveyor	Separated	Christian	2	12 years
14	028	Female	43	Tertiary	Trader	Separated	Christian	2	12 years

Table 1 Socio-Demographics of Participants

(Source: Field Work, 2023).

5.3.1 *Gender and Age Distribution*

The dataset comprises 14 couples (28 individuals) with an equal representation of males and females, ranging in age from 30 to 63 years. This age distribution reflects a broad spectrum of life stages, with most participants being middle-aged, highlighting the possibility that disputes may arise from mid-life challenges such as career pressures, evolving family dynamics, and shifting social roles (Brown & Lin, 2022). For instance, in cases 2 and 7, male respondents became chiefs, which led them into polygamous marriages, a common practice in certain cultural settings prompting their spouses to seek divorce as a result of emotional and financial strain (Bowen, 2013; Mensa-Bonsu & Maame, 2021). In another case, Mr. Nuhu (Case 1) lost his job, leading to his inability to pay child maintenance. His subsequent arrest under Section 47 of the Children's Act (560) 1998 underscores the economic vulnerabilities that often trigger intimate partner disputes (Swan & Snow, 2002).

Culturally, the age gap between male and female couples aligns with societal expectations, where older men tend to marry younger women due to the social and symbolic value placed on age and maturity in traditional marriage structures (Sohn, 2017). Interestingly, the data challenges the common assumption that younger couples are more prone to conflict, as disputes also occurred in longer-term relationships. This observation aligns with studies that suggest that the duration of a relationship does not immunize it from conflict, and long-term marriages can face complex disputes, potentially leading to divorce later in life (Brown & Lin, 2022; Carr et al., 2020). Such findings emphasize the role of life-stage challenges and evolving relationship dynamics in driving intimate partner conflicts, regardless of the length of the marriage (Barbara Markey, 2005).

5.3.2 Educational Background

Educational levels among the participants varied, with men generally having higher education, including tertiary degrees, while the women's education ranged from primary to tertiary. Most of the women had primary and vocational education. These differences likely impacted their understanding and participation in the legal and CCADR processes. Higher education, particularly among the men, often led to better comprehension of the legal procedures and more strategic dispute resolution. For example, in Case 4, a 63-year-old male participant with tertiary education opted for ADR early on, appreciating its speed and less adversarial nature:

“My cousin is a lawyer so I engaged him as my counsel for this case. We both agreed right from the onset to go with ADR. I just didn’t want any drama and preferred a quiet process”

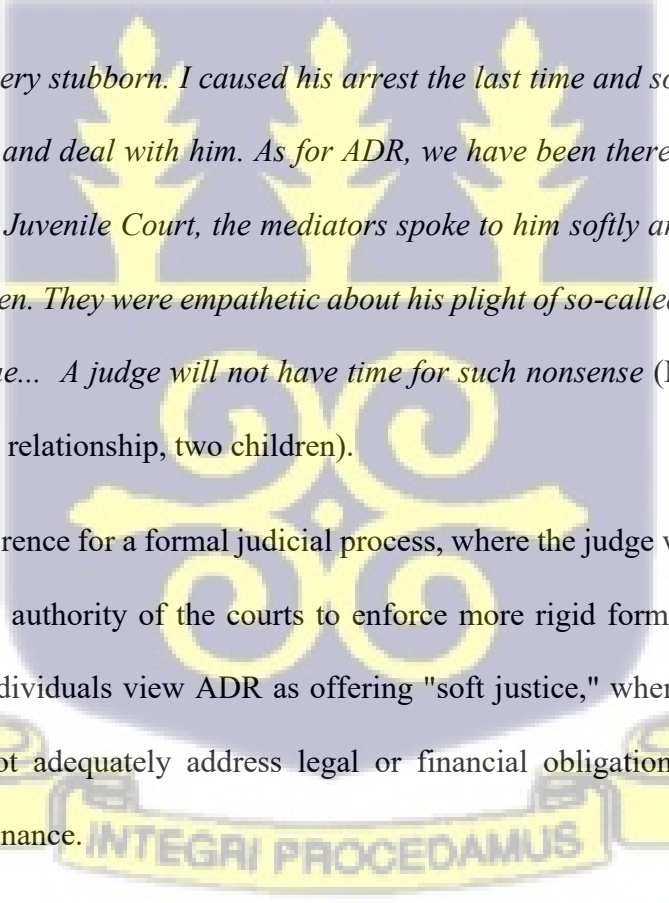
(Mr. Lawson, 63 years, Soldier, 35 years relationship, 3 adult children).

The low education levels among some women had varied impacts on their approach to ADR. While some embraced ADR for its informal nature, others resisted it, believing only a judge should handle their case. For those who welcomed ADR, the process was comforting and relieving:

“When I received the court summon, my dear it wasn’t easy for me. My blood pressure shot up; I was so afraid. I can’t speak English; I don’t have money ... what am I going to say? My God. But when we came for the first hearing and the Judge told us she wants to refer the case to a more homely avenue where they discuss marital issues, I said in my heart that God has answered my prayers. And truly, when we came, the ambience at the ADR session though it was still in the court premises, was not scary” (Madam Ama, 54, Bead Maker, 23 years childless relationship).

Participants with lower education levels, like Madam Ama who had primary education, often feared the court system due to its complexity, costs, and adversarial nature. They found ADR more accessible, affordable, and less intimidating. Studies highlight that such apprehensions stem from lack of resources, understanding of court processes, language barriers, stigma, and mistrust of the system (Abel, 2009; Prescott, 2017; Clair, 2020).

On the other hand, some low educated participants, like the primary school dropout in Case 7, resisted mediation, believing only a judge should handle their case. Despite repeated referrals to ADR by the judge, the participant's frustration with the process was evident when she eventually agreed to mediation:



“That man is very stubborn. I caused his arrest the last time and so I wanted the judge to sit on the case and deal with him. As for ADR, we have been there before. The last time we were at the Juvenile Court, the mediators spoke to him softly and advised him to look after the children. They were empathetic about his plight of so-called unemployment which I know is untrue... A judge will not have time for such nonsense (Madam Oye, 30 years, Trader, 8 years relationship, two children).

The participant's preference for a formal judicial process, where the judge would "deal with him," reflects a belief in the authority of the courts to enforce more rigid forms of justice. As Nader (1997) notes, some individuals view ADR as offering "soft justice," where the focus on mutual understanding may not adequately address legal or financial obligations, especially in cases involving child maintenance.

Another observation among the low educational level participants was that some had the tendency of leaving the resolution in the hands of the mediator to negotiate the best outcomes for them. A participant during observation period in the cause of private caucusing had this to say:

“Madam take me as your younger sister in this situation and advise me on what is best to do” (Madam Adwo, 45yrs, seamstress, 17 years relationship, four children).

Research has shown that individuals with lower levels of education often rely more heavily on mediators to guide the resolution process, as they may feel less confident in navigating the complexities of dispute resolution themselves (Merry & Silbey, 1984). Studies by Malizia & Jameson (2018) further emphasize that less educated participants may defer to the mediator's expertise, trusting them to negotiate favorable outcomes due to their perceived authority and knowledge. This reliance is often rooted in a lack of legal awareness and unfamiliarity with the ADR process, leading to greater mediator-driven outcomes.

In conclusion, participants with higher education typically showed a strong grasp of the ADR process, actively contributing to settlement agreements and proposing solutions. Conversely, those with lower education levels either welcomed the informal nature of ADR or initially resisted it due to skepticism. Despite these differences, the fairness of ADR remains unaffected by educational background, as the process is governed by legal standards that ensure equitable outcomes for all participants.

5.3.3 Occupational Status of Participants

The occupational levels of participants in the study, spanning both formal and informal sectors, reflect a significant socioeconomic disparity. This dichotomy is particularly visible in the distribution of men and women across these sectors, where men tend to hold more formal

employment such as civil servants, teachers, and insurance officers, while the women are predominantly involved in informal trades like dressmaking, trading, and operating small businesses (e.g., chop bar operator and bead maker). This occupational divide underscores the broader gendered economic inequalities, as women often have lower educational attainment, resulting in their concentration in informal sector employment (Tsikata & Darkwah, 2014).

Individuals employed in the formal sector generally enjoy more stable incomes and access to resources, which positions them better to handle legal disputes and afford legal representation. In contrast, those in the informal sector, particularly women, face greater financial instability and social vulnerabilities that limit their ability to engage with the formal litigation process (Oduro, 2010; Servon et al, 2021). The informal nature of their work also often results in irregular income, which can deter these individuals from seeking formal legal recourse due to the associated costs.

Education plays a key role in determining the employment sector and, by extension, access to justice. Higher educational levels provide pathways to formal employment, which not only offers better financial stability but also greater access to legal services (Lee & Chung, 2015). For instance, participants from cases 2 and 7, who lacked the financial capacity to hire private legal counsel, resorted to seeking help from Ghana Legal Aid. This service, aimed at assisting indigent clients, encourages the use of Alternative Dispute Resolution (ADR) as a cost-effective and empowering tool that enables clients to manage their disputes independently (Fainstein, 2016). By doing so, Legal Aid practitioners help bridge the gap between socioeconomically disadvantaged individuals and access to justice, demonstrating the efficacy of ADR in these contexts.

5.3.4 Religious Background

The majority of participants in the study identify as Christians, with only one couple identifying as Muslims. This religious homogeneity likely influences participants' values, perceptions of justice, and approaches to conflict resolution. The lone Muslim couple in the study may have unique cultural and religious considerations that shape their engagement with the ADR process differently from their Christian counterparts.

Issaka Toure (2021) highlights that the low patronage of courts by Muslims can be attributed to religious, cultural, social, and institutional dynamics. In Accra, many Muslim communities rely on Malam/Malamai, religious authorities who govern personal matters like marriage, divorce, and inheritance within their communities. These leaders are respected, and their verdicts are widely accepted, especially by women, who often prefer resolving disputes within the community rather than through formal courts. This preference for community-based solutions among Muslims is also supported by earlier studies, such as Bowen (2014), which showed a strong inclination towards resolving family disputes within the community.

Interestingly, the study's only Muslim couple had exhausted all community-based dispute resolution mechanisms before turning to the formal court system, a pattern consistent with Toure's findings.

Further, the low representation of Muslims and other religions in the study might also reflect broader demographic trends in Ghana. According to the 2021 Population and Housing Census data for Ghana (GSS), divorce rates are higher among Christians compared to Muslims and those practicing Traditional religions, which may explain the predominance of Christian participants.

5.3.5 *Living Arrangements and Relationship Status*

Participants in the study came from three regions in Ghana: Central, Eastern, and Greater Accra, with the majority (11 couples) residing in Greater Accra. The ADR Secretariat, located in Greater Accra, serves as referral point for cases across Ghana's 16 regions. This explains the inclusion of cases from outside Greater Accra. Regarding relationship status, participants were either separated, divorced, or ex-cohabitees.

Separated Couples: The majority of participants were separated, with ongoing disputes leading to their separation. Many of these couples sought to dissolve their marriages and address related issues through ADR.

Divorced Couples: A few participants were divorced, reflecting a complete legal and relational disconnection. These couples had already performed customary rites to dissolve their marriages and were seeking formal legal dissolution in court, particularly when marriages were contracted under ordinance. Additionally, cultural factors influenced court involvement; for example, among the Akans, a man is required to provide financial compensation to his ex-wife upon divorce. Women whose husbands refused to fulfill this obligation often turned to the court to enforce their claims.

Ex-Cohabitees/Ex-Lovers: Three cases involved ex-cohabitees or ex-lovers who were not married but required formal dispute resolution. The disputes centered on child maintenance and the division of jointly acquired property, reflecting the legal recognition of property rights in non-marital partnerships under the 1992 Constitution of Ghana.

5.3.6 Analysis of Length of Relationship Before the Dispute

The analysis of the length of a relationship before a major dispute highlights the correlation between the duration of the relationship and the complexity of the issues that arise. Research suggests that the longer couples have been together, the more entangled their lives become both emotionally and materially leading to more complex disputes (Carr et al., 2020). As relationships progress, shared investments, both financial and emotional, accumulate, resulting in deeper conflicts when disputes arise. The three categories outlined below: short to medium, medium to long, and long-term relationships demonstrate these varying complexities.

In short to medium-length relationships (8-12 years), disputes are often centered on immediate practical issues such as child maintenance and divorce, which may surface after years of cohabitation. Cases 1 and 8 reflect this, where disputes arose after the couples' cohabitation period. The focus here is often on resolving matters of custody and child support, which mirrors findings in studies showing that conflicts in the early to mid-stages of marriage often stem from financial strain and the raising of children (Amato & Hohmann-Marriott, 2007).

In medium to long-term relationships (13-20 years), the disputes become more layered, often involving property division and deeper emotional conflicts. Cases 2 and 5 illustrate how longer periods together contribute to recurring conflicts, as life priorities evolve over time. Research by Brown and Lin (2022) also supports this, showing that as couples' age and grow, the issues shift from child-related concerns to financial disagreements, property disputes, and shifts in life goals, which often escalate into significant sources of conflict.

For long-term relationships (21+ years), disputes reflect deeper-rooted issues related to divorce, property division, and child custody, often with a backdrop of significant shared history. Cases 3

and 4 show how the length of cohabitation and shared experiences create complex disputes that are not only about tangible assets but also about the emotional aspects of long-term partnership dissolution. Studies suggest that long-term relationships involve a greater degree of emotional entanglement, shared property, and intertwined social lives, making the resolution of disputes more challenging (Fisher et al., 2012). The extended period of cohabitation leads to more complex negotiations over shared assets and emotional investments, as partners may find it harder to separate after such a lengthy history together.

Overall, the length of the relationship played a crucial role in shaping the dynamics and complexities of the disputes. Shorter relationships tend to focus on more immediate and practical concerns, while longer relationships bring to the fore more intricate emotional and financial issues, requiring more comprehensive solutions and often more intensive mediation or litigation processes. This aligns with the broader understanding in the literature that longer relationships, due to their accumulated experiences and shared investments, present more intricate challenges in dispute resolution (Carr et al., 2020; Brown & Lin, 2022).

5.3.7 *Involvement of Children*

The involvement of children significantly complicates the resolution of relationship disputes through CCADR, as both emotional and financial issues are heightened. As observed in the cases, the presence of children, particularly their number and age, profoundly influences the dynamics of CCADR in domestic disputes. Research supports that disputes involving children are often more intricate, as parents must navigate not only their personal conflicts but also their shared responsibilities towards the children (Parkinson, 2023).

Field observation revealed that cases with no children (e.g., Cases 2 and 3) tend to focus on property division, making the resolution process simpler. However, cases involving children (e.g., Cases 1, 4, 5, 6, 7, 8, 10, 11, 12, and 13) introduce complex negotiations around custody, child support, and financial responsibilities, particularly for the non-custodial parent.

Custody arrangements are influenced by the age of the children, with younger children requiring more care from the custodial parent. The Matrimonial Causes Act (367) 1971 typically requires the non-custodial parent to provide financial support, further complicating the process. This dynamic often exacerbates conflict, particularly in financially unequal relationships (Brinig & Allen, 2000; Maccoby & Mnookin, 1992). Disputes involving children also carry a heavy emotional toll, as parents must balance personal conflicts with their responsibilities towards their children (Casmore & Parkinson, 2011; Kelly, 2012).

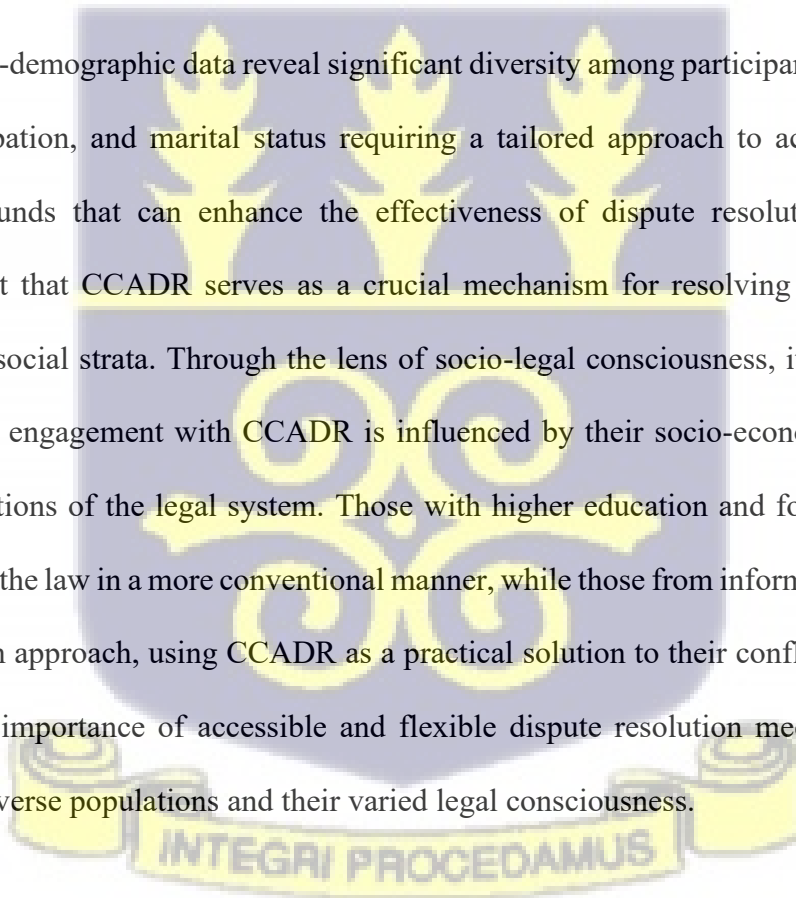
5.4 Applying the Theory of Socio-Legal Consciousness to Participants' Demographics

Participants with higher education and formal sector jobs tend to view the law as a structured and authoritative system, relying on court-connected ADR to manage disputes, as seen in Cases 4 and 5. In contrast, those with lower educational backgrounds and informal sector jobs often see the law more pragmatically, using CCADR as a flexible tool for resolving domestic issues without fully embracing the law's formal authority, as exemplified in Cases 1 and 10. For some, the law may be viewed as an obstacle, with ADR serving as a last resort when formal legal systems seem inaccessible or intimidating. This perspective often arises in cases where prolonged disputes and informal employment backgrounds contribute to a more critical or distrustful view of formal legal processes.

5.5 Implications for CCADR Process

The diverse socio-demographic profiles of participants suggest varying needs and challenges in the ADR process. Higher education and formal sector employment provided certain advantages in understanding and navigating the CCADR system. Conversely, lower education levels and informal sector employment might necessitate the use of CCADR, suggesting that CCADR is a tool used by both high status and low status people. The presence of children, especially younger ones, adds complexity to disputes, requiring careful handling to prioritize their well-being. Religious beliefs also played a role in shaping participants' expectations and attitudes towards resolution outcomes.

In sum, the socio-demographic data reveal significant diversity among participants in terms of age, education, occupation, and marital status requiring a tailored approach to accommodate these diverse backgrounds that can enhance the effectiveness of dispute resolution. The patterns observed suggest that CCADR serves as a crucial mechanism for resolving intimate conflicts across different social strata. Through the lens of socio-legal consciousness, it became apparent that participants' engagement with CCADR is influenced by their socio-economic backgrounds and their perceptions of the legal system. Those with higher education and formal employment viewed and used the law in a more conventional manner, while those from informal sectors adopted a more utilitarian approach, using CCADR as a practical solution to their conflicts. This analysis underscores the importance of accessible and flexible dispute resolution mechanisms that can accommodate diverse populations and their varied legal consciousness.



5.6 Synopsis of the Contending Cases

This section offers a summary of the 14 intimate dispute cases observed during data collection at the two study sites. In all, 8 of the cases were observed at the National ADR Secretariat within the Law Court Complex and 6 cases were observed at the Adjabeng District Court in Gbese. This writes up categorizes the substance of the disputes into three main themes: child maintenance, divorce and related issues, and the sharing of jointly acquired property. The summary includes a brief description of each case and the central conflict involved. A tabular representation has been provided to clearly illustrate the categorization and key details of each case observed during the mediation sessions.

Pseudonym	Type of Case	Length of relationship before dispute	Methods used before court	Length of resolution	Background notes to the case
Case1 Mr. & Mrs. Nuhu	Child Maintenance	12 years	Family and Muslim community	One session	Mrs. Nuhu walked out of the marriage because of additional second and third wives. Mr. Nuhu has defaulted on the payment of child maintenance for 3 years for his 3 children
Case 2 Mr. Grey & Madam. Asantewaa	Contention over ownership of a 10/50 land and business Agboloshie market	17 years	Friends and Market Leaders.	3 sessions	Mr. Grey run a chop bar business on a 10/50 land personally acquired at Agboghloshie. He engaged Asantewa, ex-lover and later handed over the business when he secured formal work. For 17 years, Asantewa was not paid for her Labour. She also advanced money to Mr. Grey to buy land for her. She was assured that the business and everything was for her. The relationship breaks down and both are claiming ownership to the piece of land and business.
Case 3 Mr. and Mrs. Danso	Divorce and Property	23 years	Family, Friends and Church	4 sessions	Couples have fertility challenges and have no child for 23 years. This issue has affected the marriage. Mr. Danso wants out of the marriage, and the sharing of property.

Case 4 Mr. and Mrs. Lawson	Divorce and Property.	35 years	Family, Friends and Chiefs	2 sessions	Mr. Lawson has been installed a chief and takes on a second wife (stool wife). The second wife conceives twins for Mr. Lawson through Invitro Fertilization (IVF). Mrs. Lawson cannot bear and seeks divorce with sharing of jointly acquired property.
Case 5 Mr. and Mrs. Osei	Divorce and Child Maintenance	17 years	Family and Church	2 sessions	The marriage has been dissolved customarily. Mrs. Osei came to court for the dissolution of the ordinance and also seek for child maintenance for her four children and alimony.
Case 6 Mr. and Mrs. Worname	Divorce and Child Maintenance	21 years	Family, Friends and Church	1 session	Couples have been separated for over 8 years and have both decided on divorce. Mrs. Worname applied to court for child maintenance for the two children.
Case 7 Mr. Artus and Madam Oye	Child Maintenance	8 years	Family and Friends	2 sessions	Mr. Artus has refused to perform his fatherly duties to his two children. Madam Oye, the ex-lover wants the court to force Mr. Artus to perform his responsibility through regular maintenance.
Case 8 Mr. and Mrs. Enam	Divorce and Child Maintenance	10 years	Family, Friends and Church	2 sessions	Mrs. Enam is seeking divorce from her physically abusive husband. She is applying for child custody and financial maintenance for the two children.
Case 9 Mr. and Mrs. Dwamena	Divorce and Property	11 years	Family, Church and Friends	2 sessions	Mrs. Dwamena is seeking for divorce and sharing of property since the husband has moved out with another woman the past three years.
Case 10	Child Maintenance	16 years	Family and Friends	Ex-lovers 2 sessions	Madam Agyeiwaa has caused the arrest and imprisonment of Mr. Anokye for refusing to pay child maintenance since 2021. She wants the court to retrieve the arrears and

Mr. Anokye and Madam Agyeiwaa					enforce regular payment of the maintenance.
Case 11 Mr. and Mrs. Opoti	Divorce and Child Maintenance	19 years	Family, Friends and Church	Three Sessions	Mrs. Opoti is fed up with her husband for constantly engaging in occultic activities. She seeks for divorce as well as custody for the only child in the marriage.
Case 12 Mr. and Mrs. Innocent	Divorce, Child Custody and Maintenance	23years	Church, Family and Opinion Leaders	Two Sessions	Mrs. Innocent left the matrimonial home about 3 years ago and has refused to be reconciled. Mr. Innocent wants the marriage dissolved so that both can be free. He seeks for custody of the five children and financial support.
Case 13 Mr. and Mrs. Doku	Divorce, Property and Child Maintenance	17 years	Family and Friends	Two Sessions	Mrs. Doku seeks for divorce from his husband, sharing of jointly acquired property, custody and maintenance of children
Case 14 Mr. and Mrs. Wayosi	Divorce and Property	13 years	Family, Friends and Church	2 Sessions	Mrs. Wayosi returned the drinks of the marriage to her estranged husband through her 8 years old son. Seeking divorce from the husband because of emotional abuse. She does not want custody but seeks for divorce and sharing of property.

Table 2: Background of cases.

(Source: Field Work 2023).

5.7 Themes and Patterns from the Cases

The objective of this section is to analyze the given cases above to understand the patterns, common themes, and contextual factors involved in each dispute. The analysis focuses on the nature of disputes, the relationships between the parties, the methods used before court intervention, and the number of ADR sessions engaged during the resolution. In all, there were

14 cases of varying disputes involving marital (11) and cohabitate (3) relationships. The disputes focused on divorce, child maintenance, and sharing of properties jointly acquired. Below is the analysis of the cases.

5.7.1 *Nature of Disputes: Child Maintenance*

Child maintenance is a critical aspect of family law, aimed at ensuring the financial well-being of children post-separation or divorce (Haux & Platt, 2020). In all, ten of the cases involved child maintenance. These cases include: 1, 5, 6, 7, 8, 10, 11, 12, 13 and 14. The common issues ranged from default on maintenance payments, enforcement of court judgments and disputes over the financial responsibility of children post-separation. This analysis examines the ten cases using legal consciousness as a frame of reference.

5.7.2 *Default on Maintenance Payments*

Several cases, including Cases 1, 5, 6, 7, 8, 10, 11, 12, 13, and 14, highlight issues of delinquent child maintenance payments, where non-custodial parents, typically fathers, failed to provide court-ordered support. For instance, in Case 1, Mr. Nuhu defaulted on payments for three years after Mrs. Nuhu left due to his polygamous marriages. These cases underscore the challenges single parents face in securing financial support post-separation, often necessitating state intervention to maintain child well-being (Garfinkel & Oellerich, 1989; Awortwe et al., 2020).

Globally, fathers are often non-custodial parents' post-separation, impacting their ability to provide regular maintenance (Meyer et al., 2017; Kang et al., 2020). In Ghana, child maintenance is a mandatory parental obligation enforced by the Department of Social Welfare and the courts, as outlined in the Children's Act 1998 (Act 560). However, the Act does not stipulate fixed payment amounts, it only considers parents' income, living costs, and the child's rights.

Research identifies several reasons behind delinquent maintenance payments, including cultural beliefs, strained familial relations, and financial difficulties (Awortwe et al., 2020). Awortwe's study found that in Ghana, the matrilineal system of inheritance, where children inherit from their mother's lineage, often lead fathers to neglect maintenance, believing it holds little benefit for them. Strained relationships with in-laws can also lead to fathers being denied access to their children, further affecting maintenance obligations (Cudjoe et al, 2024). Lastly, poverty and unemployment prevent some fathers from fulfilling their financial responsibilities (Awortwe et al., 2020; Cudjoe et al, 2024).

5.7.3 Property and Business Ownership

The theme of property and business ownership emerged as a significant aspect of disputes in five cases (Cases 2, 3, 4, 9, and 13). These cases primarily involved conflict over ownership of property acquired during the relationship, unpaid labor claims, and the division of jointly acquired assets. For example, in Case 2, Mr. Okoye and Madam Pamela, both ex-lovers, contested ownership of a 10/50 plot at Agboglobloshie market and a chop bar business. Madam Pamela claimed her right to these assets based on unpaid labor and promises made by Mr. Okoye.

In Ghana, the right to own property is protected by the 1992 Constitution, specifically Article 18, which ensures that everyone has the right to own property individually or jointly. However, ownership disputes within domestic relationships often differ from those in commercial contexts, especially during divorce proceedings. The division of marital property is a significant challenge for courts, guided by legal frameworks such as the Matrimonial Causes Act, 1971 (Act 367), and the Intestate Succession Law, 1985 (PNDCL 111). Additionally, Clause 3 of the Spousal Property Right 2013 extends legal protections to cohabiting partners, treating them as spouses for the purposes of property division. This clause is crucial as it grants cohabiting partners similar legal

recognition and protections as formally married couples, ensuring that property division post-separation is based on equity.

5.7.4 Divorce and Associated Issues (Child Custody and Maintenance)

Divorce and its associated issues, including child custody, maintenance, and property distribution, emerged as central themes in nine cases (3, 4, 5, 6, 8, 9, 11, 12, and 13). These cases illustrate the complexities of marital breakdowns in Ghana, influenced by factors such as domestic abuse, financial difficulties, and fertility issues. The Ghana Population and Housing Census Report (2021) highlight that while marriage is culturally significant, with many unregistered customary marriages, divorce is equally prevalent, with over half a million dissolved marriages. This demonstrates the gap between celebrated marriages and formal registrations, a reflection of the informal nature of customary and Islamic unions in Ghana.

Ghana's legal framework for divorce, governed by the Matrimonial Causes Act, 1971 (Act 367), addresses issues of child custody, maintenance, and property distribution. Courts are mandated to prioritize the welfare of children and ensure fair financial provisions for their upbringing, while Article 22 (3) of the 1992 Constitution ensures equal access to marital property, recognizing women's substantial contributions to the marriage.

Cultural practices, such as the Akan custom of divorce, often bypass formal legal property distribution, underscoring tension between customary practices and formal law (Offei, 2001; Dowuona-Hammond et al., 2020; Akoto, 2024). This gap partly accounts for some of the participants' particularly the women, applying to the court for the dissolution of their marriage so that they can have a fair share of the joint acquired property. Historically, customary law did not recognize joint ownership of property, but recent legal advancements now protect spousal rights, allowing for more equitable distribution upon divorce. However, these changes still face

resistance, particularly in cases where informal marriages are dissolved outside formal legal processes (Dowuona-Hammond et al., 2020; Akoto, 2024).

In analyzing these disputes, legal consciousness theory provides insight into how individuals interact with the legal system. The perception of the legal system as either instrumental, remote, or oppressive depends largely on the individual's social standing, financial resources, and cultural background. This theory helps explain why many individuals in informal marriages may perceive the formal legal system as inaccessible, instead relying on customary mechanisms that may not fully protect their legal rights.

5.8 Analysis of Pre-Court Methods Engaged in by Respondents by Participants

In African societies like Ghana, pre-court methods such as family mediation, community elders' involvement, and religious arbitration play a crucial role in resolving disputes, particularly in personal and family matters. These informal mechanisms emphasize dialogue, restoration, and social harmony, offering a culturally resonant and cost-effective alternative to formal litigation (Boege, 2006; Nukunya, 2003). However, they also have limitations, including power imbalances that can disadvantage marginalized groups, particularly women (Coker-Appiah & Cusack, 1999). Additionally, the lack of legal enforceability can hinder the effectiveness of informal resolutions when stronger enforcement is required (Menski, 2006).

5.8.1 Family and Community Mediation

Family and community mediation is one of the most culturally entrenched methods of dispute resolution in African societies. In this context, local elders, family members, and religious leaders play significant roles in mediating conflicts (Nader, 1997). In the case of Mr. and Mrs. Nuhu (Case 1), family and religious community mediation were pursued as the initial step in resolving their

dispute over child maintenance. This practice reflects the high value placed on maintaining family unity and social cohesion (Boege, 2006). While family mediation is often effective in resolving smaller disputes, its limitations become apparent in more complex cases involving issues like financial responsibility or child custody. These limitations, as seen in the Nuhu case, frequently prompt parties to turn to formal legal channels when informal mediation fails.

This reliance on informal mediation is rooted in the communal value systems where elders or religious leaders are trusted to offer unbiased solutions based on shared social norms (Merryman, 1993). However, the challenge lies in the enforceability of decisions, as these mediators typically lack formal authority to enforce binding agreements. This often leads to a breakdown in the process and necessitates legal action (Menski, 2006).

5.8 2. *Friends and Informal Networks*

Friends and informal networks are another avenue often utilized in pre-court conflict resolution, particularly in business or land disputes, as evidenced by Case 2. These informal networks provide support and attempt to mediate conflicts based on personal relationships. While they may foster open dialogue, their authority and ability to enforce decisions are limited, much like family mediation.

Nwoye (2006) highlights that while friends and informal networks can serve as an effective starting point for resolution, these interactions often lack the formal structures needed for resolving more intricate disputes. The reliance on trust and personal relationships may make it challenging to reach a fair and balanced solution, especially in cases involving significant stakes like property or financial disputes. As a result, unresolved conflicts frequently escalate to the courts, demonstrating the limitations of this pre-court method in handling more complex issues.

5.8.3. Church and Religious Involvement

The involvement of religious institutions, particularly churches, is another common method used in pre-court mediation in Ghana, especially in disputes among religious couples. These institutions emphasize reconciliation and forgiveness, guided by religious norms and cultural expectations. In Case 3, the couple sought resolution through family, friends, and their church before turning to the courts, which reflects the reliance on religious leaders for dispute resolution in intimate matters.

Religious mediation often attempts to resolve conflicts by encouraging reconciliation and community values over individual rights (Kameri-Mbote, 2000). However, despite these good intentions, religious mediation may not always address the underlying issues of conflict, particularly where there are power imbalances or where legal intervention is required to protect vulnerable individuals (Boege, 2006). This method, while fostering social harmony, may prioritize reconciliation over justice, particularly in situations of domestic violence or significant economic disputes.

To conclude, pre-court methods such as family and community mediation, friends and informal networks, and religious involvement demonstrates their cultural importance in dispute resolution. These methods are deeply embedded in the social fabric of African societies, reflecting collective values and communal responsibility. However, despite their initial effectiveness, these approaches often struggle to resolve more complex or contentious disputes, leading individuals to seek legal intervention when informal processes fail. This analysis underscores the importance of understanding the cultural contexts that shape individuals' engagement with the law and legal processes, as explored through the lens of legal consciousness theory (Ewick & Silbey, 1998). In African societies, informal dispute resolution methods can be effective for maintaining social harmony but may fall short in ensuring justice and equitable outcomes in more intricate cases. The

need for formal legal processes becomes apparent when these culturally rooted methods prove inadequate. Therefore, a deeper understanding of both cultural and legal contexts is crucial for addressing disputes comprehensively, especially in the hybrid legal system like Ghana's, where informal and formal processes coexist.

5.9 Issues Leading to the break-up of the Relationship

Relationship breakdowns are influenced by a range of personal, cultural, and societal factors. This analysis highlights key issues such as infidelity, polygamy, financial disputes, child maintenance, abuse, infertility, occult practices, and desertion, revealing how these factors contribute to the dissolution of marriages.

Infidelity and polygamy are prominent causes of marital breakdowns, particularly in African societies where polygamy is culturally accepted but often leads to emotional distress and legal conflicts. Infidelity is perceived as a betrayal of trust, frequently leading to divorce (Osafo et al., 2021). Financial disputes, especially over property, are another significant factor, straining relationships and often leading to legal action (Oppong Asante, Osafo & Nyamekye, 2014). The unequal distribution of resources within marriages exacerbates tensions, especially when compounded by issues like child maintenance (Awortwe et al., 2020).

Child maintenance disputes place additional pressure on custodial parents, frequently leading to legal battles when one partner fails to meet financial obligations (Laird, 2011). Abuse, both physical and emotional, is another major contributor, with victims often seeking legal intervention for protection, making domestic violence a critical factor in marital dissolution (Abudullah et al., 2021).

Infertility also contributes to relationship breakdowns, as societal expectations around childbearing place immense pressure on couples, particularly women, in patriarchal societies (Tabong & Adongo, 2013; Azize Diallo et al., 2024). The emotional toll of infertility often leads to separation, especially when it is seen as a failure to meet cultural obligations.

Occult practices and desertion further complicate marriages. Involvement in occult activities can create mistrust between partners, leading to irreparable rifts. Similarly, prolonged separation due to economic migration or other reasons causes emotional and financial strain, making reconciliation difficult (Coelho-Junior et al., 2022).

In conclusion, factors including infidelity, polygamy, financial disputes, child maintenance, abuse, occult practices, and desertion interact in complex ways to contribute to relationship breakdowns. Cultural norms, societal expectations, and legal frameworks play pivotal roles in shaping these dynamics, highlighting the need for legal systems that are sensitive to these influences in managing marital dissolution.

5.10 Analysis of the length of Time for the Resolution of the Dispute

The duration of disputes resolved through Court-Connected ADR (CCADR) typically contrasts with the protracted timelines of traditional adversarial systems. CCADR generally involves up to four sessions, with unresolved cases being referred back to court. The data reveals that most disputes (7 out of 14) were resolved within two sessions, indicating efficiency in cases with clear and straightforward issues.

Two cases, Mr. & Mrs. Nuhu and Mr. & Mrs. Worname, were resolved in a single session due to the straightforward nature of their disputes. Mr. Nuhu's case involved clear non-payment of child maintenance, and Mr. & Mrs. Worname's long-separation simplified their divorce proceedings.

Several cases, including Mr. & Mrs. Lawson, Mr. & Mrs. Osei, and Mr. Artus & Madam Oye, were settled in two sessions. These cases often involved clear issues like divorce, property division, and child maintenance, facilitated by pre-existing conditions or legal precedents.

Two more complex cases, Mr. Grey & Madam Asantewaa and Mr. & Mrs. Opoti, required three sessions. The complexities involved financial disputes and occult activity allegations that necessitated additional deliberation.

The case of Mr. & Mrs. Danso took four sessions due to the intricacies of dividing property after a long marriage. This highlights how prolonged relationships and complicated property issues can extend the resolution time.

Overall, the duration of CCADR varies based on the complexity of the issues, the clarity of mutual agreements, and external factors, demonstrating the adaptability of ADR mechanisms to different dispute scenarios.

5.11 Attempts at Conflict Resolution

All 28 participants initially sought to resolve their disputes through informal means, involving family members, community elders, and religious leaders. They faced several challenges, including partner resistance, non-binding agreements, and opposition from family members.

Resistance from Partner: Twelve participants reported difficulties with partners who refused to engage in family mediation. For example, Mr. Angelo, who experienced frustration as his partner consistently ignored mediation attempts, preferring to focus on legal action.

Non-Binding Nature of Agreements: Five participants noted that even when their partners attended the family mediation, they often ignored the agreements reached. Mr. Ansong, for

instance, described how his partner disregarded mediation efforts from community chiefs, leading to the end of their 35-years marriage. Similarly, Mabel experienced exhaustion from mediation attempts before resorting to court action for child maintenance.

Opposition from Family Members: Four participants encountered resistance from their partner's family, who either colluded with the partner or showed indifference. Anne, for example, faced a lack of support from her partner's family, which led her to take legal action. This reliance on informal dispute resolution underscores a shift towards formal legal systems when traditional methods fail, highlighting the interplay between community-based and formal legal processes.

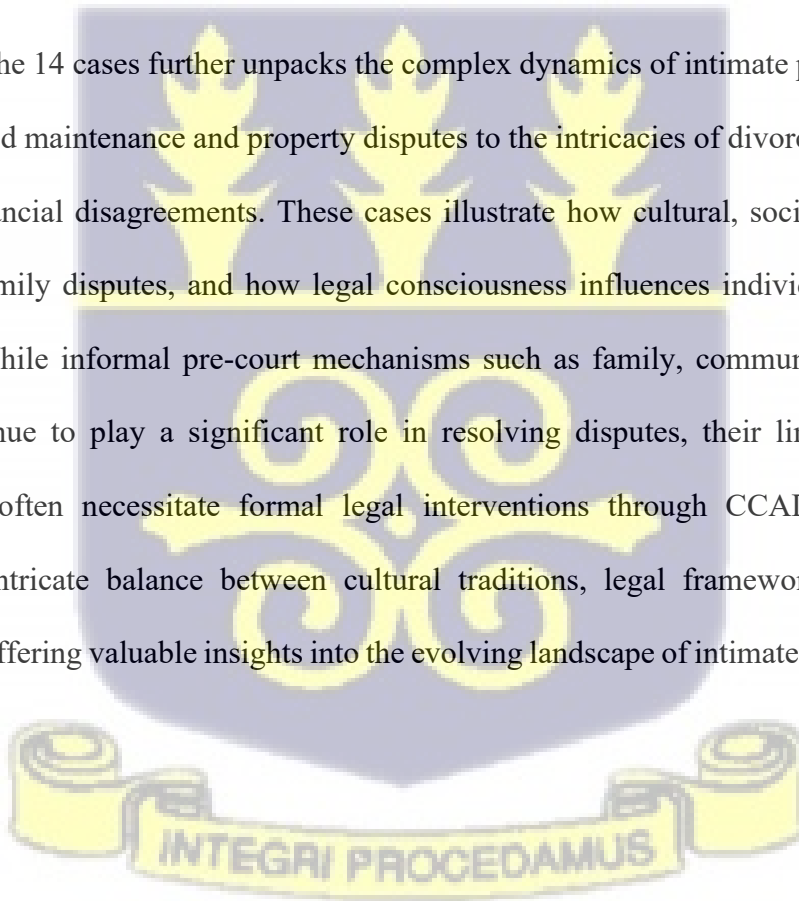
In sum, an analysis of the 14 cases revealed several distinct themes and patterns that highlight the complex nature of family disputes, ranging from child maintenance and property ownership to divorce-related issues such as child custody and financial disagreements. These cases illustrate that family disputes in Ghana are deeply influenced by cultural, societal, and personal factors, with legal consciousness shaping how individuals navigate the law. While pre-court mediation methods such as family, community, and religious mediation play a crucial role, their limitations in complex cases often lead to formal legal interventions. Understanding the intricate interplay between legal frameworks, cultural practices, and personal circumstances provides valuable insight into the dynamics of intimate dispute resolution in Ghana.

5.12 Conclusion

The socio-demographic data of participants in this study reveal a rich tapestry of diversity, encompassing a broad range of ages, education levels, occupations, and marital statuses. This diversity underscores the need for tailored dispute resolution strategies that cater to the unique

backgrounds of individuals, enhancing the overall effectiveness of Court-Connected Alternative Dispute Resolution (CCADR) in Ghana. Through the lens of socio-legal consciousness, the analysis shows that participants' engagement with ADR is deeply influenced by their socio-economic standing and perceptions of the legal system. Those with higher educational attainment and formal employment tend to engage with the law in a more structured, conventional manner, while participants from the informal sector adopt a more pragmatic, utilitarian approach, viewing ADR as a functional solution to their conflicts. This underscores the necessity for accessible and adaptable dispute resolution systems that meet the needs of diverse populations, ensuring equitable access to justice.

The analysis of the 14 cases further unpacks the complex dynamics of intimate partner disputes in Ghana, from child maintenance and property disputes to the intricacies of divorce, including child custody and financial disagreements. These cases illustrate how cultural, societal, and personal factors shape family disputes, and how legal consciousness influences individuals' interactions with the law. While informal pre-court mechanisms such as family, community, and religious mediation continue to play a significant role in resolving disputes, their limitations in more complex cases often necessitate formal legal interventions through CCADR. This chapter highlights the intricate balance between cultural traditions, legal frameworks, and personal circumstances, offering valuable insights into the evolving landscape of intimate dispute resolution in Ghana.



CHAPTER SIX

DATA ANALYSIS

EXAMINING THE CCADR PROCESS AND EMERGING THEMES

6.1 Introduction

The exploration of Court-Connected Alternative Dispute Resolution (CCADR) mechanisms in intimate partner disputes revealed various facets of participants' experiences and perceptions. In all, seven themes with subthemes were extracted from the data: Procedure for Court-Connected ADR, leveraging tool between rigid laws and flexible informal mechanisms, navigating unpleasant cultural and social norms, a tool of empowerment and voice, therapeutic jurisprudence, satisfaction with ADR outcome, lived experiences of ADR users and insights on limited legal agency. These themes have been analyzed in line with the study's objectives.

6.2. Navigating Justice Beyond the Courtroom: The Procedure for Court-Connected ADR in Ghana.

This section responds to the objective of exploring the processes involved in using Ghana's court-connected ADR. It examines how cases are initiated, managed, and resolved within this framework. The findings highlight the approach in enhancing access to justice and offer insights into its impact on the broader legal landscape in Ghana. The procedure for Court-Connected ADR in Ghana is designed to facilitate amicable resolutions by leveraging trained neutrals and structured processes, all the while maintaining judicial oversight. The system does not only seek to address the backlog of cases in the judiciary but also provide parties with an opportunity to resolve their conflicts in a manner that respects their individual needs and interests.

6.2.1 Step-by-Step Procedure in Ghana's Court-Connected ADR

The Court-Connected (ADR) process in Ghana is a structured pathway designed to facilitate the resolution of disputes in a manner that is both efficient and amicable. Below is a detailed breakdown of each step in the CCADR process gathered from the field work.

6.2.2 Filing the Case with the Court Registry

The process begins when a party (the plaintiff or complainant) files the necessary legal documents, such as a writ of summons, or petition, at the court registry. The registry then records the details of the case, assigns it a case number, and enters it into the court's docket. This initial step is formal and marks the official entry of the dispute into the judicial system.

After filing, the party must pay the required filing fee, which is determined based on the nature of the case and the court's fee schedule. Once the case is filed and the fees are paid, the court issues a summons to the defendant or respondent, informing them of the case and the date of the first hearing. This summons is typically served by court bailiffs or other authorized personnel. The court registry then schedules the first hearing date, taking into account the court's calendar and the availability of the assigned judge. The hearing date is communicated to both parties once the service of process is confirmed. It's important to note that this process is the standard procedure for initiating legal action in the judicial Service of Ghana and applies to all types of disputes. It is not specific to cases involving intimate partner disputants but is used uniformly across various legal matters.

6.2.3 Appearing Before the Judge for the Hearing

After filing, the parties involved in the dispute must appear before the judge for a hearing. During this stage, the judge evaluates the case's merits and the potential for an out-of-court resolution. The

judge's role here is crucial in determining whether the case is suitable for ADR. If the judge deems the case to be amenable to ADR, this is the stage that referral may likely take place. From the field work, most of the participants explained that their cases were referred to CCADR when they appeared before the Judge. This stage as outlined in the Judicial Service Court-Connected Practice Manual played out in the participants narratives just as the manual had documented.

6.2.4 Referral to CCADR at Any Stage in the Proceedings

A key feature of the CCADR system is its flexibility. The judge, recognizing the potential for a more amicable resolution, may refer the case to CCADR at any stage during the proceedings. This referral can happen early in the process or later, depending on the case dynamics and the judge's assessment. For instance, majority of the participants recounted that their case was referred to ADR during the first hearing. One participant explained in the following:

“...When our case was called and we met the judge the first time, we were called together. Everybody presented his/her case. Then later, we were called one by one by the judge. So, after talking to us both, she saw that there was nothing that can be done so all that we have to do is to resolve it. She told us she is referring the case to ADR so that they can have time for us provided we will agree” (Madam Efua, seamstress, 45 years, one child, 21 years relationship).

There were instances where referral also occurred after substantial litigation. In the narrative of one participant whose case had been adjourned six times:

“... Both of our lawyers were involved in a banter about their ups and down and not giving time to the case. And finally, the judge decided that it seems we are not making any

headway so she is rather opting for the ADR if we will agree. And both lawyers agreed to the ADR.”(Mr. Okyere, 55 years, Engineer, four children).

The fieldwork revealed that cases can be referred to (CCADR) at any stage of the court proceedings; however, the consent of both parties is essential for this referral to proceed.

6.2.5 Initiation for Court -Connected ADR

The initiation of the CCADR process can be driven by various stakeholders, including the court, the judge, the disputing parties, or their legal representatives. This step marks a formal shift from a purely judicial approach to a mediation-centered process, where the parties agree to explore ADR as an alternative method for resolving their dispute.

Fieldwork observations showed that five cases were initiated by the parties themselves, with their legal representatives recommending the ADR process. These cases were referred to mediation during the first hearing. The petitioners, who had received legal assistance from the Ghana Legal Aid Commission, a government agency focused on providing legal services to vulnerable individuals were encouraged to pursue mediation. The Commission, known for advocating ADR as a fast and cost-effective method of resolving disputes out of court, played a key role in this referral.

Further, five cases were referred to ADR during the second hearing; two after the third adjournment, and another two following the sixth adjournment. A notable observation from the fieldwork indicate that for family-related cases, ADR is often used as the default resolution method, even in cases where there is a history of recurring disputes. For example, one participant, who had previously used ADR on two occasions, commented on this common practice among the judges as follows:

“As soon as the judge mentioned ADR, I told her that we've been to two ADRs already. Yes. And then she said, oh, she wanted to, because those were for only child maintenance, but this present case is for the divorce” (Mrs. Thompson, 47 years, trader, two children, 17 years relationship).

The law emphasizes the use of ADR methods in resolving matrimonial disputes. Judges are mandated to refer family disputes to ADR whenever possible. Therefore, it is not surprising that the fieldwork observed judges consistently encouraging the use of ADR in every appropriate instance.

6.2.6 CCADR Officer Assigns a Mediator to the Case

When a case is referred to (CCADR), an ADR officer is responsible for appointing a mediator, typically a neutral third party with expertise in dispute resolution. The selection of the mediator is critical, as their approach and skills can significantly influence the outcome. Fieldwork observations showed that mediators were assigned based on the nature of the dispute and their suitability to handle the specific case, ensuring a more efficient and effective resolution.

6.2.7 Mediation and Conciliation Process

The mediation process within Ghana's CCADR system serves as the predominant method for resolving disputes efficiently and amicably. This structured approach encompasses several stages designed to facilitate mutual understanding and agreement between disputing parties.

Pre-Mediation Preparation

The process commences with a thorough pre-mediation preparation, where the mediator, acting as a neutral third party, lays the foundation for effective dialogue. Parties may be asked to submit or exchange initial statements outlining their positions and expectations. During an initial joint

session, the mediator clearly defines their role and establishes or invites the parties to set ground rules that will govern the proceedings. This session also serves as an educational opportunity, where the mediator elucidates the principles and benefits of ADR within the judicial system, emphasizing key aspects such as neutrality, impartiality, and confidentiality. Additionally, the concept of caucuses, that is, private meetings between the mediator and each party is explained to ensure all participants are prepared for subsequent stages. The mediator often concludes this introduction with a gentle reminder of the potential consequences of failing to reach a settlement, highlighting the possibility of prolonged and costly litigation if the case returns to court.

Mediation Sessions

Following the preparatory phase, the mediation process advances through a series of structured sessions aimed at fostering open communication and collaborative problem-solving: **Joint Sessions** :In these sessions, each party articulates their perspective on the dispute, including their understanding of the issues, underlying interests, and desired outcomes. The mediator facilitates this dialogue, ensuring that both parties have the opportunity to express themselves fully and respectfully. Together, they identify and agree upon the specific issues that require resolution. **Caucuses**: The mediator may hold private meetings with each party to delve deeper into their positions, concerns, and potential areas of flexibility. These confidential discussions allow the mediator to gain nuanced insights, explore alternative solutions, and address sensitive matters that parties may be hesitant to discuss openly.

Formulating Settlement Offers

Once sufficient common ground has been established through joint sessions and caucuses, a final joint meeting is convened to formulate and negotiate concrete settlement offers. The mediator

guides the parties through this process, helping them evaluate options and work towards a mutually acceptable agreement.

Role of Legal Representation

The fieldwork revealed an important observation: even when parties have legal representation, they are encouraged to personally present and discuss their cases during mediation sessions. Lawyers typically play a supportive role, sitting behind their clients and offering guidance when necessary. This approach allows the parties to take active ownership of the resolution process. However, it was noted that clients who had heavily depended on their attorneys during court proceedings often struggled initially with direct participation, frequently seeking reassurance from their counsel during discussions.

It is also important to note that there is no requirement for parties to have legal representation in the mediation process. Individuals can choose whether or not to be represented by a lawyer. In cases where lawyers are present, their role is supportive rather than central to the discussions.

Additionally, mediators do not provide legal advice during mediation sessions. Instead, parties are encouraged to consult their attorneys outside of mediation to obtain legal counsel, especially when evaluating the implications of potential agreements or adjusting unrealistic expectations regarding legal outcomes. This external legal guidance is crucial in ensuring that parties make informed decisions throughout the mediation process.

Conclusion of Mediation

The mediation process concludes when all disputed issues are satisfactorily resolved, and the parties reach an agreement on the terms of settlement. These terms are then documented in a written agreement, providing a clear and enforceable resolution to the dispute.

6.2.7.1 Timeframes and Case Dynamics

According to the ADR Practice Manual, mediation sessions are time-bound to promote efficiency. Mediators are expected to conclude proceedings within 30 days; however, they may extend this period by an additional 30 days depending on the complexity and dynamics of the case. Field observations indicate that the majority of disputes, particularly those concerning child maintenance, are resolved within two sessions. In contrast, more complex cases involving divorce and joint property distribution often require more extensive deliberation, sometimes extending beyond four sessions to reach a comprehensive settlement. Overall, Ghana's CCADR mediation process exemplifies a balanced and systematic approach to dispute resolution, prioritizing effective communication, voluntary agreement, and expedient justice while accommodating the diverse needs and circumstances of disputing parties.

6.2.8 Drawing Up of Settlement Agreement

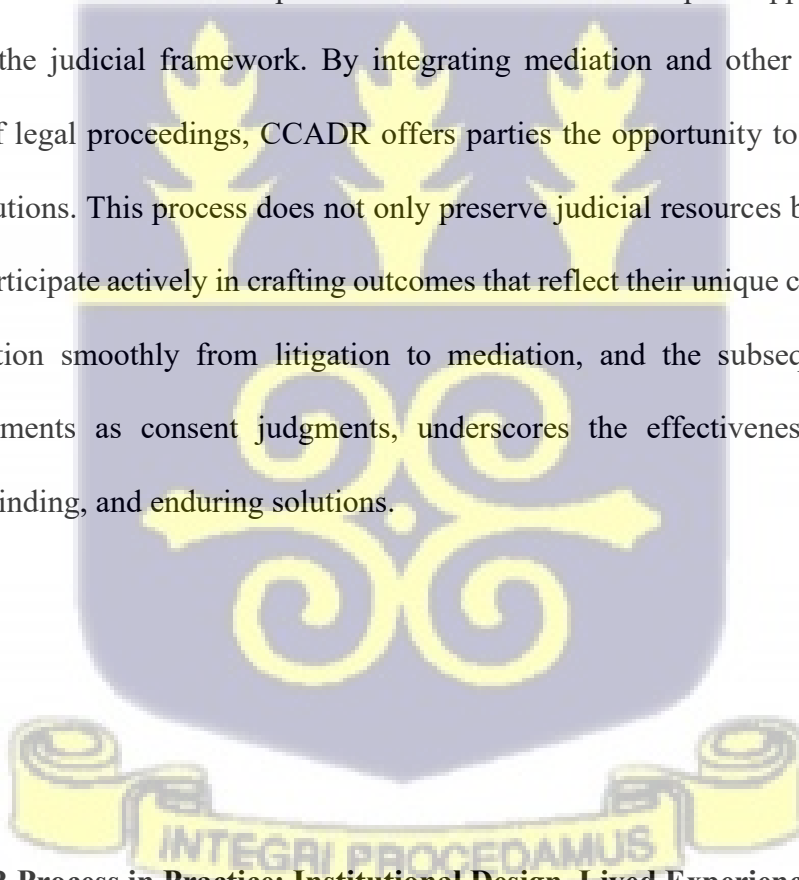
If the mediation is successful, the outcome is formalized in a written agreement. This agreement outlines the terms of the settlement and is binding on all parties. However, if the mediation does not result in an agreement, the case is referred back to the court for further judicial proceedings. This ensures that the judicial process remains an option for resolving the dispute. From the field work, It was observed that settlement agreements are hand documented to guarantee confidentiality. More importantly, at the close of ADR session, all written information gathered at the session are destroyed in the presence of the parties. Any other evidence tendered are given back to the owners.

6.2.9 Post Settlement Procedure (Adoption)

The final step in the (CCADR) process is the judge's adoption of the settlement agreement as a consent judgment. This step is critical because it grants the mediation agreement the full force of

law. Typically, the adoption process occurs with both parties appearing before the judge either on the same day or at the next scheduled hearing. For civil cases, this usually occurs in open court, while matrimonial cases are often handled in the judge's chambers. During this session, the judge verifies with both parties that the written agreement accurately reflects their mutually agreed-upon terms. Upon receiving their confirmation, the judge enters the terms of the settlement without modification as consent judgment. Once adopted, this judgment becomes legally enforceable, providing the parties with both legal certainty and finality. It is important to note that decisions made through CCADR are not subject to appeal.

The (CCADR) process in Ghana exemplifies a well-structured and adaptive approach to resolving disputes within the judicial framework. By integrating mediation and other ADR methods at various stages of legal proceedings, CCADR offers parties the opportunity to achieve amicable and timely resolutions. This process does not only preserve judicial resources but also empowers individuals to participate actively in crafting outcomes that reflect their unique circumstances. The ability to transition smoothly from litigation to mediation, and the subsequent adoption of mediation agreements as consent judgments, underscores the effectiveness of CCADR in delivering fair, binding, and enduring solutions.



6.3 The CCADR Process in Practice: Institutional Design, Lived Experience, and Sociological Critique

Ghana's Court-Connected Alternative Dispute Resolution (CCADR), as established under the Alternative Dispute Resolution Act, 2010 (Act 798), is formally embedded within the litigation

process. While institutionally framed as an alternative pathway to justice, its operationalization reveals a paradox: disputants must first fully enter the formal court system before accessing mediation. This section offers a sociological analysis of this process by integrating institutional critique with empirical excerpts from interviews and observations, highlighting how ordinary Ghanaian citizens experience, interpret, and navigate CCADR in practice.

6.3.1 Registration and Entry into the Court System: Daunting Formality and Economic Burden

Empirically, the court registry emerges as the most significant structural barrier to meaningful access to CCADR. Despite the CCADR's normative promise of informality and accessibility, disputants must first comply with standard litigation requirements, including filing fees, documentation, repeated court appearances, and procedural delays.

Several participants described the court registration process and court appearances as overwhelming and financially draining:

“By the time the case was referred to CCADR, I had already paid filing fees, transport money, and missed work several times. At that point, I was tired, not even hopeful anymore.” (Madam Zeinab, 45 years, three children).

Observational data from the court registry and adjoining courtrooms revealed that litigants' experiences prior to referral to (CCADR) were characterized by cumulative stress arising from repeated adjournments within the litigation process. Parties frequently recounted multiple court appearances that yielded no substantive engagement with their disputes, often due to systemic constraints such as congested dockets and institutional scheduling practices. These delays imposed

both economic and emotional costs, particularly for litigants dependent on daily income and those managing family responsibilities.

Importantly, this pre-CCADR experience shaped how litigants later encountered CCADR. Rather than diminishing the value of mediation itself, the data indicate that CCADR was widely perceived as a constructive and humane alternative once parties finally accessed it. Several participants described mediation as the first point at which they felt listened to and treated with dignity after prolonged procedural delays:

“...The court took long, but when we reached the CCADR, things started moving.” (Mr. Raph, 45 years, 2 children).

From a legal consciousness perspective, repeated adjournments within litigation did not erode confidence in CCADR; instead, they heightened appreciation for its problem-solving orientation. Many litigants contrasted the formal rigidity of court hearings with the responsiveness of mediation, reinforcing CCADR's role as a corrective institutional space within the justice system. This aligns with Ewick and Silbey's (1998) argument that legal consciousness is relational and comparative, shaped through contrasts between different legal encounters rather than by any single institutional experience.

At the same time, the data suggest that the timing of referral plays a crucial role in shaping litigants' capacity to exercise agency within mediation. Because CCADR is often accessed after parties have endured prolonged litigation delays, some litigants entered mediation in a state of fatigue and economic strain. This condition did not negate mediation's effectiveness, but it influenced the context in which compromise occurred:

“By then, I just wanted peace. Mediation helped us talk, but the waiting before was too much.”(Madam Mary, 56 years, 2 children).

Within this framework, what emerges is not a critique of CCADR as a dispute resolution mechanism, but of its **late-stage institutional positioning**. The mediation process itself consistently functioned as an empowering space facilitating dialogue, emotional expression, and negotiated outcomes yet it was required to absorb tensions and frustrations generated earlier by the litigation system. As such, CCADR often operated as a restorative intervention rather than a preventative one.

This finding strengthens, rather than weakens, the case for CCADR within Ghana’s justice architecture. It suggests that the transformative potential of court-connected mediation could be further enhanced if parties were able to access it earlier, before prolonged adjournments narrowed their practical options. In this sense, limited legal agency observed among some participants is best understood not as a failure of CCADR, but as an outcome of institutional sequencing that places mediation after significant procedural attrition has already occurred.

Accordingly, CCADR in Ghana demonstrates considerable promise as an accessible, culturally resonant, and procedurally flexible mechanism for dispute resolution. The sociological insight offered by this study is that its effectiveness is maximized when institutional design supports early engagement, rather than requiring mediation to function primarily as a remedial response to the structural constraints of litigation.

6.3.2 Judicial Appearance and Referral: Authority, Deference, and Limited Voluntariness

Referral to (CCADR) in Ghana occurs through multiple institutional pathways. Cases may be referred by judges, initiated by the parties themselves, suggested by lawyers, or administratively

directed by the court particularly in intimate and family disputes. Irrespective of the referral source, participation in CCADR is formally premised on party consent, and this consent requirement constitutes standard practice within Ghana's CCADR framework under the ADR Act, 2010 (Act 798).

However, empirical interviews and courtroom observations indicate a sociologically significant distinction between **formal consent** and **experienced consent**. A number of participants reported attending mediation on the understanding that "the judge said we should come," even though they had technically agreed to the referral:

"I am here because the judge said we should try CCADR because it will help us." (Madam Zeinab, 45, 3 children).

Observational data from courtrooms revealed that while consent was routinely sought, the process through which it was obtained was often brief and procedurally oriented. In several observed hearings, referrals to CCADR were made in a matter-of-fact manner, with limited explanation of what mediation entails, how it differs from litigation, or what rights parties retain within the process. Judges typically framed mediation as a helpful or appropriate next step, but detailed pre-referral orientation was rarely provided at that stage.

This institutional practice helps explain why some litigants retrospectively described judicial referral as directive rather than optional. Sociologically, the issue here is not the absence of consent, but the **thinness of the communicative process surrounding consent**. In hierarchical courtroom settings where judges command significant symbolic authority, abbreviated explanations can inadvertently reinforce perceptions that mediation is an instruction rather than a choice.

As Bourdieu (1987) argues, legal authority operates symbolically, producing compliance through legitimacy rather than overt coercion. In the Ghanaian context where respect for judicial authority is deeply embedded, judicial encouragement of ADR carries persuasive force even when framed as voluntary. Observational data support this interpretation: litigants frequently nodded in agreement to referrals, yet later articulated uncertainty about whether refusal was a realistic option.

At the same time, observational data from mediation sessions and post-mediation interviews suggest that once parties entered CCADR, many came to appreciate the process and retrospectively endorsed the referral:

“At first, I thought it was just another court thing. But mediation was different. We were allowed to talk.” (Madam Asantewaa, 52 years, 2 children)

This finding underscores the fundamentally facilitative and consensual character of CCADR, while also highlighting the importance of pre-mediation orientation in shaping how consent is understood and experienced. Legal consciousness scholarship is instructive here. As Ewick and Silbey (1998) demonstrate, individuals interpret legality not only through formal rules but through everyday interactions with legal authorities. When explanations are limited, individuals fill interpretive gaps using culturally familiar understandings of authority and obedience.

Lawyers and parties who initiated mediation themselves exhibited a different orientation. Observational data showed that where lawyers explicitly explained mediation to their clients, or where parties actively requested CCADR, participants were more likely to describe mediation as a deliberate and empowering choice. This supports Menkel-Meadow's (2006) argument that informed framing by legal intermediaries plays a critical role in sustaining meaningful consent within CCADR processes.

Taken together, these findings suggest that CCADR in Ghana operates with a strong normative commitment to voluntariness, but that the institutional conditions under which consent is sought particularly in courtroom settings shape how that voluntariness is perceived. The sociological implication is not that judicial referral undermines agency, but that more robust pre-referral orientation could strengthen party understanding, reinforce autonomy, and enhance the already positive reception of mediation.

Thus, the observed tension between authority and consent does not detract from CCADR's legitimacy. Rather, it reveals an opportunity for institutional refinement, one that would deepen legal agency while preserving the cultural trust placed in judicial guidance. In this sense, CCADR emerges not as a coercive alternative to litigation, but as a collaborative mechanism whose effectiveness is enhanced when communication, explanation, and orientation are foregrounded alongside formal consent.



6.3.3 Initiation and Mediator Assignment: Trust, Cultural Expectations, and Role Ambiguity

Once referred, CCADR officers assign mediators to cases. Participants frequently evaluated mediators not in technical terms, but through culturally grounded criteria such as age, composure, moral authority, and perceived neutrality.

Observational notes from mediation sessions revealed that mediators often oscillated between facilitative and advisory roles, especially in family disputes. This hybridity reflects Ghana's plural legal culture, where dispute resolution is traditionally associated with elders who guide parties toward morally acceptable outcomes (Boege, 2006). However, such role ambiguity also risks reinforcing power imbalances, particularly where one party often women enters mediation with weaker economic or social bargaining power.

6.3.3.1 Mediation Sessions: Voice, Emotion, and Unequal Bargaining Positions

Mediation sessions were repeatedly described as emotionally intense spaces where disputants could narrate pain, betrayal, and frustration often for the first time within a formal institution:

“In court I couldn’t talk. In mediation I cried. That is where I said everything.” (Madam Asana, 35 years, 3 children).

This experiential dimension supports claims within therapeutic jurisprudence that CCADR can humanize legal processes by creating space for voice, emotional expression, and narrative repair (Wexler & Winick, 1996). Mediation sessions often allowed disputants particularly in intimate and family conflicts to articulate pain, betrayal, and frustration in ways that are typically constrained within adversarial court proceedings. For many participants, this opportunity was experienced as validating and emotionally relieving.

However, empirical evidence from interviews and mediation observations also revealed that the surfacing of sensitive disclosures did not uniformly produce therapeutic outcomes. In some cases,

the very openness encouraged by mediation intensified emotional responses, particularly anger. Participants recounted moments where revelations about infidelity, financial neglect, or past abuse triggered heightened hostility rather than reconciliation:

“When she said those things in front of the mediator, I became very angry. It brought everything back.” (Mr. Adu, 55years, four children)

Observational data corroborated these accounts. During several mediation sessions, disclosures intended to promote understanding instead reopened unresolved wounds, leading to raised voices, emotional withdrawal, or hardened bargaining positions. Sociologically, this underscores the ambivalent nature of emotional expression within institutional settings. As Hochschild (1983) argues, emotions are not merely internal states but are socially managed and contextually shaped. When institutional spaces invite disclosure without sufficient emotional containment or preparatory framing, emotional expression can shift from catharsis to escalation.

From a therapeutic jurisprudence perspective, this does not undermine the humanizing potential of CCADR but highlights its conditionality. Wexler and Winick (1996) themselves caution that legal processes can have anti-therapeutic effects if emotional dynamics are not adequately managed. In the Ghanaian context, where intimate disputes often intersect with deeply held cultural expectations about marriage, respect, and gender roles, sensitive disclosures may carry particularly high emotional stakes (Merry, 2006).

Feminist and critical ADR scholars have long warned against assuming that dialogue-oriented processes are inherently benign, especially in intimate disputes marked by power imbalances and emotional vulnerability (Abel, 1982; Grillo, 1991). This study’s findings extend this critique by demonstrating that emotional openness while valuable can also exacerbate anger and

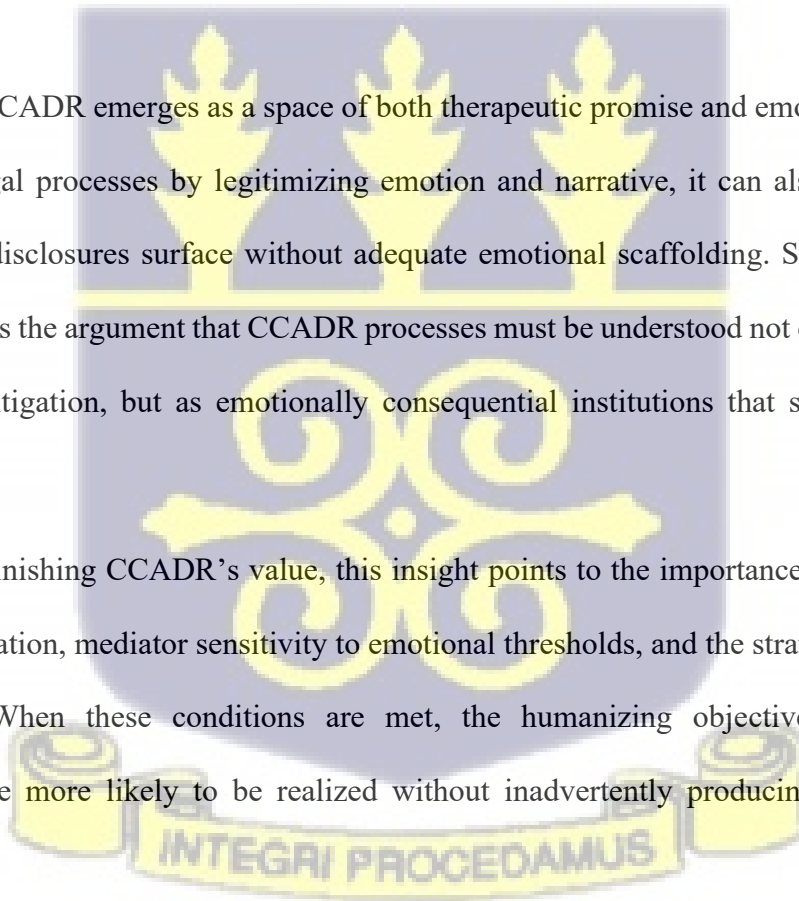
traumatization when parties are unprepared or when disclosures occur in the presence of unresolved resentment.

Importantly, participants who experienced emotional escalation did not reject mediation outright. Rather, they often emphasized the need for better emotional preparation and facilitative management.

This suggests that the issue lies not in mediation as a forum, but in how emotional disclosure is structured and supported. Scholars of restorative justice similarly emphasize the importance of pacing, safety, and readiness when facilitating emotionally charged dialogue (Braithwaite, 2002; Daly, 2003).

Consequently, CCADR emerges as a space of both therapeutic promise and emotional risk. While it humanizes legal processes by legitimizing emotion and narrative, it can also intensify anger when sensitive disclosures surface without adequate emotional scaffolding. Sociologically, this finding reinforces the argument that CCADR processes must be understood not only as procedural alternatives to litigation, but as emotionally consequential institutions that shape, amplify, or contain affect.

Rather than diminishing CCADR's value, this insight points to the importance of enhanced pre-mediation orientation, mediator sensitivity to emotional thresholds, and the strategic management of disclosure. When these conditions are met, the humanizing objectives of therapeutic jurisprudence are more likely to be realized without inadvertently producing anti-therapeutic outcomes.



6.3.4 Written Agreements and Judicial Adoption: Formal Closure, Lived Uncertainty

The translation of mediated settlements into written agreements and their subsequent adoption by the court as consent judgments represents a critical point of institutional closure within Ghana's CCADR process. Sociologically, this moment signifies the successful reintegration of negotiated, relationship-sensitive outcomes into the formal legal system. The conversion of mediated agreements into consent judgments confers legal legitimacy, finality, and certainty on outcomes that are otherwise informal and dialogic in nature.

From a positive institutional perspective, the non-appealable nature of consent judgments is widely regarded by participants and practitioners as a key strength of CCADR. Finality reduces prolonged litigation, curtails adversarial escalation, and offers disputants psychological closure. Several participants expressed relief that mediation brought their disputes to an end without further court contestation:

"At least it ended there. No more court, no more fighting." (Madam Akosua, 51 years, 2 children).

This feature aligns with broader ADR scholarship that emphasizes settlement finality as central to efficiency, cost reduction, and emotional relief (Menkel-Meadow, 2006; Nolan-Haley, 2012).

However, empirical interviews also revealed a significant gap between formal legal finality and lived legal reality, particularly at the enforcement stage. While parties often understood that consent judgments were "binding," many were unclear about the procedural steps required when compliance failed:

"He was asked to be paying the school fees and monthly maintenance allowance for the children but he does not." (Madam Yaa, 55 years, post-mediation enforcement challenge)

Importantly, this challenge does not stem from CCADR itself but from the structural location of enforcement within the broader court system. Enforcement mechanisms such as applications for execution, contempt proceedings, or variation orders fall outside the mediation process and require re-engagement with formal litigation. For many litigants, particularly those with limited financial resources or legal literacy, this return to court reintroduces the very barriers CCADR had temporarily alleviated.

Sociologically, this creates a paradox. While CCADR succeeds in producing legally valid and non-appealable outcomes, its effectiveness in practice depends on institutional processes beyond its control. The burden of initiating enforcement is often borne by the more vulnerable party frequently women in maintenance or family disputes thereby reproducing inequalities at the post-settlement stage (Merry, 2006; Galanter, 1974).

At the same time, observational and interview data suggest that the symbolic authority of a consent judgment does exert some compliance-inducing effect. Several participants reported partial or initial compliance precisely because the agreement carried the weight of a court order:

“He paid at first because he knew it was a court order.” (Madam Asana, 39 years, two children).

This finding underscores that consent judgments are not institutionally hollow; rather, their limitations arise when compliance breaks down and enforcement becomes necessary.

Taken together, the consent judgment functions as both a strength and a structural boundary of CCADR. Its finality and non-appealability enhance efficiency, certainty, and closure, affirming CCADR’s legitimacy within Ghana’s justice system. Yet, the uneven experience of enforcement

highlights a critical institutional gap one located not within mediation itself, but at the interface between consensual settlement and coercive legal enforcement.

Recognizing this distinction is analytically important. It allows CCADR to be evaluated on its own terms as an effective dispute resolution mechanism, while simultaneously drawing attention to the need for stronger institutional linkages between mediation outcomes and accessible enforcement pathways. In this sense, the enforcement challenge does not diminish CCADR's value; rather, it identifies an area where the broader justice system must better support the sustainability of mediated outcomes.

Structural Critique of CCADR Procedure: Delays and the Case for Early ADR Integration

While the (CCADR) has proven effective in reducing case backlogs and promoting amicable dispute settlements (Crook, 2012), critique of its procedural integration in Ghana's judicial framework reveals significant inefficiencies. One of the most pressing issues is the delay caused by its late introduction in the litigation process. The current court-connected ADR requires litigants to first undergo several stages of the formal court procedure before being referred to ADR, often after the first hearing. This process can take between three to four months as observed from field work before ADR may be initiated, negating its primary goal of providing swift dispute resolution.

For instance, the experience of Mr. Worname, a 51-year-old trader, illustrates this challenge:

"I filed this case in October 2022. When we came for the first hearing in December, the case was adjourned because we were told the Judge had gone for training. Then we came in January 2023, and we were again informed the Judge was sick. The third time, we were even told the judge had been transferred to a bigger court, and that the new judge coming to replace her in this court will resume work next month, April. So, the day we reported to

the ADR was our first court hearing because the Judge spoke to our lawyers briefly and told us that she wants to refer the case to ADR since that will help in providing amicable resolution faster” (Mr. Worname, 51 years, trader, 12 years relationship, 3 children).

This narrative underscores the potential delays inherent in the current procedure, as court adjournments, procedural hurdles, and administrative delays can often postpone the initiation of the ADR process. In Mr. Worname's case, (which typifies an extreme example) it took nearly six months before his case was even referred to ADR, illustrating how the current system can mirror the delays of traditional litigation.

Making ADR Available at the Court Registration Point

One solution to these delays is introducing ADR earlier in the process, specifically at the court registration point. Instead of waiting for several months before receiving an ADR referral, parties could be directed to ADR immediately upon filing their case, thus skipping the delays associated with pre-hearing processes. Several countries, including United Kingdom, Australia and New Zealand, have already implemented early-stage family conferencing or mediation services, allowing disputants to engage in ADR from the outset. In Australia, for example, the *Family Law Act 1975* mandates that parties attend Family Dispute Resolution (FDR) sessions before litigation is initiated (Finlay, 1977; Lusink, 1978). This requirement has significantly reduced court backlogs, expedited settlements, and enhanced user satisfaction (Astor & Chinkin, 2013). New Zealand also offers an exemplary model through its Family Group Conferences, where disputants can opt for ADR immediately upon filing a case. This early intervention reduces the strain on court resources and allows families to resolve disputes more amicably and promptly (Levine, 2000; Cohen & Gershon, 2015).

Practical Benefits: Cost Reduction and Time-Saving

The practical benefits of introducing ADR at the registration stage are significant. First, it would lead to a reduction in costs. Currently, litigants in Ghana accumulate substantial legal fees and administrative expenses as their cases navigate multiple adjournments and hearings. By initiating ADR at the registration point, disputants can reach settlements sooner, minimizing legal fees and other costs associated with prolonged litigation (Genn, 2012).

Additionally, introducing ADR earlier would save time for both disputants and the judicial system. In family disputes, where issues such as child custody, property division, and spousal maintenance require prompt resolution, the benefits of a faster process are clear. Early ADR allows families to resolve issues within weeks instead of months, which is critical to minimizing disruptions to family life (Roberts, 2016; Magiri, 2019). Beyond the practicalities of cost and time, early ADR aligns with the growing emphasis on restorative justice seen in systems like Australia's Family Dispute Resolution (FDR) and New Zealand's Family Group Conferences, which prioritize relationship healing and collaborative problem-solving (Field & Crowe, 2007).

Critique of Late Adoption of Settlement Agreements in Court-Connected ADR

One of the primary concerns observed from the field work with Ghana's CCADR procedures is the delay in the formal adoption of settlement agreements. Under the current system, parties who reach a settlement during mediation are often scheduled to appear before a judge at the next available hearing date to formalize the agreement. This period between mediation and formal court adoption allows parties to reconsider or withdraw from the settlement, undermining ADR's goal of providing swift resolutions (Genn, 2012).

Jurisdictions like Australia and New Zealand offer more efficient models, where settlement agreements are adopted immediately after mediation, reducing the likelihood of post-settlement disputes and saving time and costs. In Australia's *Family Law Act 1975*, for example, settlements reached through Family Dispute Resolution (FDR) are immediately adopted by a registrar or magistrate, making them legally binding without the need for additional court appearances (Astor & Chinkin, 1992). This approach not only reduces the risk of post-mediation disputes but also alleviates the burden on the court system by eliminating the need for a second hearing solely to adopt the agreement. More importantly, the immediate adoption of agreements strengthens the integrity of the mediation process and ensures quicker, more binding resolutions, which is crucial, especially in family disputes. Implementing such practices within Ghana's court-connected ADR framework would enhance the efficiency of the system, reduce costs, and improve the likelihood that parties leave mediation with a lasting resolution.

6.3.6 Concluding Sociological Insight

The Ghanaian CCADR process operates as a legally innovative yet institutionally constrained mechanism. Its sociological significance lies not only in its formal design but in how ordinary citizens experience it often as a blend of hope, exhaustion, voice, and compromise. While CCADR offers meaningful spaces for dialogue and emotional expression, its placement within the conventional litigation pathway renders it daunting, costly, and uneven in impact.

This analysis suggests that for CCADR to fulfil its access-to-justice mandate, institutional reform is required particularly the decoupling of mediation from full litigation entry. Without such reform, CCADR risks reproducing the very inequalities it seeks to resolve, offering procedural settlement without fully addressing substantive justice.

6.4 Bridging the Gap: Leveraging Court-Connected ADR as a Tool Between Rigid Laws and Flexible Informal Mechanisms

One of the themes that emerged from the data under objective two which focused on the reasons intimate partners use ADR in Ghana is that ADR can be used as a vital tool to bridge the gap between the rigid structure of formal litigation and the flexibility of informal resolutions. This balance is particularly crucial for individuals who find traditional litigation processes too stringent and informal agreements too unstructured. ADR offers a middle ground that combines the enforceability of formal legal processes with the flexibility and personal touch of informal negotiations. In the words of one of the participants who felt the traditional litigation was verbose:

“My cousin is a lawyer so I engaged him for this case. We both agreed right from the onset to go with ADR. I just didn’t want any drama and preferred a quiet process” (Mr. Adu, 63, Soldier, 35 years Relationship, 3 Adult Children).

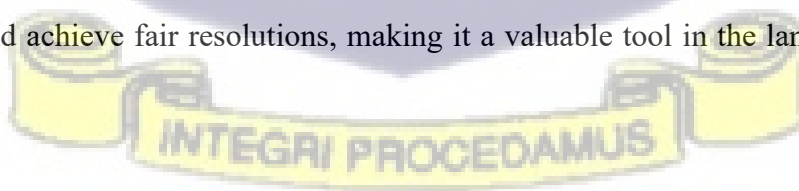
Mr. Adu's preference for ADR highlights the desire for a less confrontational and more private resolution process. His relationship with his lawyer cousin facilitated an informed decision to opt for ADR, emphasizing the importance of personal connections and trust in choosing dispute resolution methods. His emphasis on avoiding drama indicates a need for emotional peace and a streamlined process, which ADR can provide by fostering a more collaborative and less adversarial environment. ADR effectively combines the strengths of formal legal frameworks and informal dispute resolution methods. It provides the structure and authority of the legal system while incorporating the flexibility and relational focus of informal mechanisms. Looking at the length of relationship with the wife, it makes sense for the use of a less confrontational dispute resolution method.

6.4.1 Focused Resolution Rather than Procedure

My field observation revealed that there were instances when the judges focused on resolution rather than procedure. This emphasizes ADR's primary focus on achieving resolution efficiently, rather than strictly adhering to procedural norms. The method prioritizes the disputants' needs and interests, fostering a more effective and amicable settlement process. A participant had this to say in that regard:

“...both of our lawyers were involved in a banter about their ups and down and not giving time to the case. And finally, the judge decided that it seems we are not making any headway so she is rather opting for the ADR if we will agree. And both lawyers agreed to the ADR”... (Mr. Amakye, 57 years, Insurance Officer, 23 years childless marriage).

The judge's suggestion to refer the case to ADR after series of procedural norms underscores the judiciary's recognition of the effectiveness of ADR and their commitment to promoting it. It demonstrates the judiciary's willingness to endorse alternative methods when conventional approaches stall, emphasizing ADR's role as a complementary tool rather than a replacement. Moreover, the lawyers' agreement to pursue ADR reflects the flexibility and cooperative nature of the process. Unlike the adversarial nature of court proceedings, ADR fosters an environment where all parties, including legal representatives, work collaboratively towards resolution. This case exemplifies how ADR can be effectively utilized to overcome procedural stagnation, foster collaboration, and achieve fair resolutions, making it a valuable tool in the landscape of dispute resolution.



6.4.2 Humanizing the Legal Process

By prioritizing communication, understanding, and cooperation, ADR helps to humanize the legal process, making it more responsive to the needs of the individuals involved. It shifts the focus from winning or losing to finding mutually beneficial solutions, ultimately fostering a more empathetic and supportive legal environment. A participant had this to say:

“If I should reflect on how he has treated me...used fraudulent means to sell properties that we have jointly acquired to pursue his selfish interest, using the court was the only means of getting some form of justice. However, it was not easy initiating the process... he is not a mere stranger, he is my husband and I have four boys with him, and the boys are very much attached to him especially the third one. The ADR option the Judge introduced has worked out really well for me because in the end it was like we met a group of elders who counselled us about our actions and the potential impact on our young boys” (Mrs. Osborn, Teacher, 45 years, 18 years relationship, four children).

Mrs. Osborn's narrative highlights the emotional and practical benefits of ADR in family disputes, emphasizing its ability to bridge rigid formal legal systems and flexible informal mechanisms. ADR humanizes the legal process by addressing both relational and emotional complexities, particularly in cases involving children. While her husband's fraudulent actions in selling jointly acquired property require formal justice, ADR offers a less confrontational, more accessible alternative. By incorporating counseling and mediators who operate like community elders, ADR resonates with traditional methods, providing a familiar and empathetic approach to resolving sensitive family conflicts.

6.4.3 Weak Informal Structures

There were also instances where participants explained that they used the court because the informal agreements made at home either with family members, friends or religious leaders proved to be unenforceable. The partners refused to comply with the decisions made at home leaving them with no option. According to one participant:

“....After his family told me they have washed their hands off the case, I came to court ... the children are three so I need help. The Judge told us she is referring the case to ADR so that we can sit and discuss the matter as a family. Now I know my children will receive the financial support from their father” (Madam Efua, 47, Trader, 16 years relationship, three children).

Madam Efua's case highlights the practical benefits of (ADR) in family disputes. After informal methods failed, judicial referral to ADR provided her with a binding agreement for financial support, demonstrating ADR's ability to offer enforceable solutions while maintaining cooperation. The case illustrates how ADR balances the structure of formal law with the flexibility of informal mechanisms, addressing both emotional and practical needs. The growing judicial support for ADR enhances its credibility and accessibility, making it an attractive option for individuals seeking reliable and adaptable resolutions.

In conclusion, ADR serves as an effective leveraging tool between rigid laws and flexible informal mechanisms, addressing both the emotional and practical needs of disputants while ensuring enforceable and trustworthy outcomes. The experiences of individuals like Mr. Adu and Madam Efua highlight the diverse applications and reasons behind the use of ADR in resolving intimate conflicts in a balanced and satisfactory manner.

6.5 Navigating Unpleasant Cultural and Social Norms (A tool of Agency)

Another theme that emerged regarding the reasons behind intimate partners' use of (ADR) in Ghana is its role as a vital tool for those looking to circumvent the often rigid and sometimes inequitable customary laws. In societies where customary norms hold sway, individuals who find themselves at odds with these dominant traditions may feel isolated in their struggle for justice. ADR offers them a pathway to challenge and overcome these entrenched norms, providing a means of liberation from the constraints of the majority's views. By providing a structured yet flexible framework, ADR allows disputants to address their grievances in a more equitable manner, ensuring that justice is achieved without being constrained by traditional norms that may not serve the best interests of all parties involved.

From the field work, two participants, whose spouses had experienced a change in status and had become chiefs in their respective communities were customarily required to take on additional wives which is referred to as “stool wife”. While the concept of a stool wife is often regarded as a conventional practice rooted in traditional norms in some Ghanaian communities, the partners involved were dissatisfied with the introduction of an additional wife. They felt that the prevailing cultural customs did not align with their personal interests. The affected parties explained that the introduction of the additional wife was not merely a traditional formality, but a serious and consequential act that deeply impacted their lives. In the words of one of the partners:

“How do you go through the process of IVF to conceive twins with a woman you claim you married in the name of stool wife? ... We both married from scratch and have worked very hard to accumulate this wealth. If anything should happen to him, those twins will be given priority because of their age... I will not sit and allow her to reap where she has not sown...I have taken my share of the properties and given to my children, he can share his

with his twins, and definitely, he can't exempt our children although they are grown."

(Mrs. Green, 61 years, Civil Servant, 35 years relationship, 3 adult children).

This narrative discusses Mrs. Green's efforts to protect her children's inheritance in a complex family dispute involving polygamous marriage and inheritance rights. Her indignation at her husband's actions and her determination to secure her adult children's share reflect resistance to unjust customary practices. The case highlights how ADR provides a platform for fairer outcomes by allowing for more personalized resolutions that consider the rights and contributions of all parties, including grown children, newly conceived twins, and the husband's obligations. ADR empowers individuals like Mrs. Green to proactively address legal disputes outside the limitations of customary laws.

Similarly, another participant who used ADR to navigate from a polygamous marriage as a result of conventional practice captured her concerns in the following:

"Even with my three children, he is struggling to look after us. I receive a lot of financial support from my mother who is a businesswoman. For a man who is struggling to care for this small family, what is the guarantee that he will be able to cater for a larger family size. He has married the third wife and the children are 8. The third wife is even expecting another child (Madam Zeinab, 42 years, Trader, 13 years relationship, three children).

The participant's statement highlights the challenges of polygamous family structures, especially financial strain. Her husband's inability to provide for his growing family forces her to rely on her mother for support, illustrating the insufficiency of customary law provisions for spousal and child support. This reliance on extended family is a temporary solution, and her concern for future stability led her to leave the marriage, despite social norms supporting polygamy. ADR offers an

empowering platform for individuals to voice concerns and negotiate solutions that prioritize their interests, beyond the constraints of customary norms.

In sum, ADR can serve as an effective tool for individuals navigating the often rigid and unjust landscape of customary laws. By providing a structured yet flexible platform, it ensures that disputes are resolved in a manner that respects the rights and contributions of all parties involved..

6.6 A Tool of Empowerment and Voice for the Marginalized

The objective of exploring ADR outcomes among intimates partners in the research data led to the emergence of a key theme, that is, ADR as a powerful tool for empowering marginalized individuals by giving them greater control over their conflict resolution processes. Unlike traditional litigation, which can be intimidating and costly, ADR offers an accessible, cost-effective, and participatory approach. This empowerment is crucial in ensuring that marginalized voices are heard and that their interests are adequately represented. In the words of a participant:

“...My husband had clearly demonstrated that he will not care for the children and it was not easy. Raising four children alone is not easy. The frustration and stress were written all over me. All the respected people that I approached to talk to him on my behalf said they have spoken to him and yet there was no change in his behavior. A lot of people advised me to sue him but I didn't have the means to pay for legal fees. Eventually, a friend directed me to go to Ghana Legal AID in Dansoman and tell them my story. They did everything for me until the point we came for the mediation. I didn't spend so much money as I feared. I didn't know that things will be this simple (Nana Afia, 47 years, Seamstress, 17 years relationship, four children).

Nana Afia's journey to Ghana Legal Aid demonstrates how support systems help marginalized individuals navigate the ADR process. The assistance she received made the legal process more accessible, reducing financial burdens and allowing her to pursue her case without significant costs. ADR's simplicity, efficiency, and participatory nature contrast with traditional litigation, providing timely resolutions and empowering individuals by giving them a sense of agency. Community and peer support also play a crucial role in guiding individuals to legal aid resources. Overall, ADR is a vital tool for promoting justice, equity, and empowerment for marginalized individuals.

6.7 Healing Through Justice: Exploring the Principles of Therapeutic Jurisprudence in Conflict Resolution.

The objective of finding out ADR outcomes revealed another theme of therapeutic jurisprudence in the process. Therapeutic jurisprudence is an approach that emphasizes the impact of legal processes on the psychological health and emotional well-being of individuals involved in legal disputes (Wesler & Winick, 2008). This perspective seeks to humanize the legal system, ensuring that the processes and outcomes promote healing and positive psychological effects, rather than exacerbating stress and conflict. The data revealed that while the ADR journey had brought some level of closure to some participants, others also recounted that the journey had only increased their stress levels. In the words of one participant who felt the process had brought some relief:

“Ever since this issue came up, this is the first time that both of us have sat together and heard the concerns of each other without any fights. Most of the issues he raised in the mediation session, it was my first time of hearing them... He knew I was afraid of the

surgery but we never sat to discuss at length as a couple...though the marriage is over, I am satisfied” (Mrs. Agyei, 54 years, bead maker, 23 years childless relationship).

Mrs. Agyei’s reflections highlight the therapeutic benefits of ADR, particularly in fostering communication, emotional closure, and satisfaction, even in the dissolution of her marriage. ADR provided a safe space for open dialogue, allowing her and her husband to express their concerns and gain mutual understanding. This improved communication reduced conflict and promoted empathy. Mrs. Agyei found emotional closure, reducing stress and anxiety, which traditional litigation often exacerbates.

Mrs. Agyei’s story highlights another key benefit of CCADR: its ability to enforce participation, unlike informal mechanisms. In informal settings, parties may become frustrated and walk away from mediation. However, with CCADR, both parties are required to remain engaged until the process is complete, giving it an advantage over informal structures. This coercive power ensures that disputes are resolved more effectively in CCADR than in informal systems where participation is not obligatory.

Similarly, another participant stated that:

“... I learnt a lot from them that day. If we have experienced people like them [mediators] to sit and talk about your problems, they will not push you or pressure you. I am sure it is ok and that I can recommend it to any other person who is in my situation. If the person goes there, he or she might also get his peace of mind like me” (Mr. Rauf, 48 years, Engineer, 15 years relationship, three children).

Mr. Rauf’s statement reflects on the positive experience he had with the ADR process, emphasizing the value of being counseled by experienced and empathetic mediators. He felt that the process was not about pushing or pressuring him but rather about providing support and

guidance. This approach allowed him to gain peace of mind and confidence in recommending ADR to others in similar situations.

6.7.1 Anti Therapeutic Jurisprudence and its impact

There were however some participants who also gave a rebuttal that the journey had brought them some emotional pain because their partners backed by the legal system had caused them irreparable pain. One recounted his story as:

“... I don't have that kind of money. But I have to accept it so that everything will calm down. I pleaded with the panel to give me some time to raise that money. And they gave me between a year or two years. I don't know where I'm going to raise that money from. She herself, she knows. But I guess that she wants to worry me. I don't have anything. I don't know what to do. As I'm talking to you, if I die today, I'll be happy but I don't want to go and hang myself for her to enjoy, because that woman is worrying me too much. When she packed her things, I thought, I will be free. And now look at what she is doing” (Mr. Okyere, 52 years, Trader, 18 years relationship, two children).

Mr. Okyere's experience highlights the failure of the ADR process to provide emotional relief, leaving him feeling hopeless and overwhelmed by financial demands. His statement, "I don't know where I'm going to get that money from," reflects his despair and sense of victimization, which contrasts with the empowerment typically associated with therapeutic jurisprudence. Unlike Mr. and Mrs. Agyei, who benefited from emotional closure and reduced stress, Mr. Okyere's case shows that the ADR process focused solely on financial resolution, neglecting his emotional well-being. His experience underscores the need for ADR practitioners to ensure that outcomes address both legal and emotional aspects to promote the well-being of all parties.

6.8 User Satisfaction with ADR Outcome

Another significant theme regarding ADR outcomes among intimate partners revolves around participants overall satisfaction with the process. The data revealed that most participants appeared to be satisfied with the process. The vast majority attributed their satisfaction to the professionalism of the service providers or mediators, as well as their patience, fairness, friendliness, honesty, and concern for the well-being of their children. Additionally, some appreciated the calm and peaceful environment, which they found similar to a family setting, making them feel comfortable. Some of the participants were also pleased that the mediators took their time to listen to both sides. More importantly, participants asserted that they had the opportunity to express themselves and that they made input in the outcome of the case. There were however, participants who also complained bitterly.

6.8.1 Satisfied Users

Some participants were very satisfied with the process. One participant stated that:

"For ADR, dear, I told you from the beginning that the lady there, I'm giving her thumbs up. She really tried." (Madam Comfort, 34 years, trader, 10 years relationship, two children).

Madam Comfort's statement demonstrates satisfaction with the ADR experience due to the mediator's competency and the perceived fairness of the process. This indicates that individual satisfaction with legal process can be heavily influenced by the behavior and skills of legal professionals involved.

6.8.2 Dissatisfied Users (Child Custody)

There were however, a few dissatisfied individuals who expressed concerns about perceived biases in favor of their partners. One participant's response to the question of satisfaction is as follows:

“hmmn pause (laughs) My experience with the ADR? hmmn, not that satisfactory, not that satisfactory. Just to put it on a mild side. You see eh, what I got to know is, there is some sort of favoritism one way or the other. Yeah, because, all that I spoke or all my requests were not granted, but all she requested, went through. Even, the custody of the children. Those boys are not kids. The least age is 11 years. But still, I was not given custody of them. While all of them know how to do everything by themselves. They know how to bath, they know how to wash, they know how to do everything even to cook but I tried explaining myself, but I was not”(Mr. Onomah, 52 years, Civil Engineer, 20 years relationship, 4 children).

Mr. Onomah's feeling that he was not adequately heard reflects a broader challenge in ADR. In any dispute resolution process, the ability of each party to fully express their views and have those views considered is crucial to the perceived fairness of the process. The outcome of the ADR process, particularly in custody cases, may not always align with the expectations or desires of all parties involved. Mr. Onomah's dissatisfaction with the custody decision, despite his belief that he should have been granted custody, reflects this challenge.

Dissatisfied Users (Spousal Compensation)

Another area where participants expressed dissatisfaction fell within the sphere of spousal compensation. Article 22 of the 1992 Constitution of Ghana addresses the property rights of spouses post separation. In the absence of any jointly acquired properties to be shared, the law

enjoins the husband to compensate the wife. Some Petitioners and respondents provided varied reasons for which they were not satisfied with outcomes, in the words of one petitioner:

“... I've lost a whole lot; As I am here right now, this rainy season, if I sleep and I wake up, I can't walk.” my first pregnancy has given me a permanent damage. ... Do you think this man should just go free? And he is wicked enough to sit in front of the court and tell the court that he can only give 10 thousand cedis as compensation? 19 years of marriage. ...Hmm. So, I have no choice” (Mrs. Malcom, 48 years, Trader, 19 years relationship, two children).

Mrs. Malcom's statement highlights the emotional and complex nature of ADR proceedings, particularly regarding compensation and alimony. Her feelings of loss, including permanent physical damage from her first pregnancy, intensify her demand for fair compensation, underscoring the need for ADR to address deep-seated issues to ensure justice and closure. She perceives the compensation offered by Mr. Malcom as inadequate, given their long marriage and her sacrifices, which raises concerns about fairness in ADR outcomes. This points to a gap between legal provisions, such as Article 22 of the 1992 Constitution of Ghana on spousal property rights, and the actual resolutions achieved through CCADR, calling for improvements to better uphold constitutional rights.

In a similar vein, the ex-husband also expressed his dissatisfaction as follows”

... “For four years, we have stayed in the same room, shared the same bed yet there were no sexual relations between us, she denied me sex all these years. I didn't throw her things away during those times. Look at my right eye, it got damaged in the cause of one of our regular fights. I need GHC 15,000 to undergo surgery to correct it but I don't have the money... If after all these maltreatments she has decided to pack her things and leave on

her own free will, I have to compensate her Ghc 30,000.00! Between the two of us who needs to be compensated? (Mr. Malcom, 54 years, Trader, 19 years relationship, two children).

Mr. Malcom's narrative highlights his perception of bias in favor of his wife during the ADR process, a common criticism in intimate partner disputes. Both couples expressed dissatisfaction with the financial outcome: Mrs. Malcom finds the compensation insufficient for her losses, while Mr. Malcom feels the financial burden is unfair. Their case illustrates the complexities of resolving emotionally charged disputes through ADR, with both parties dissatisfied. This case also reveals a gap in ADR, as it tends to focus on legal and financial issues while overlooking the emotional and psychological needs of the parties involved.

On the whole, while some individuals expressed satisfaction with the CCADR decision, others felt that justice was not served. More importantly, satisfaction often depended on whether the outcome aligned with participant's expectations and needs as observed from the field work.

6.9 Enforcement of Court-Connected ADR Outcomes

The final significant theme concerning ADR outcomes among intimate partners centers on the enforcement of judgments. The enforcement of court judgments is a fundamental component of the justice system, ensuring that legal decisions are respected and carried out. Effective enforcement promotes justice, fairness, economic stability, and deterrence, thereby reinforcing the authority of the courts and maintaining public confidence in the legal system. Court -Connected ADR settlements have the benefit of judicial enforcement. Its judgement can be enforced like any regular court judgement. Participants expressed concerns over enforcement of ADR outcomes. In as much as some participants expressed no challenge with compliance, others complained of the

stress they have gone through in enforcing the consent judgement. The case of Madam Asantewaa, third time using ADR captures some of the frustrations:

“I have received judgement since 2018 from the Juvenile Court for him to be paying maintenance for the boys, but he doesn’t honor the payment. In 2020, I initiated criminal charges against him and claimed all the arrears. I am back using the same medium to claim the arrears from 2021 to 2023. I know he has planned not to be paying voluntarily. I will keep on arresting him until he pays the maintenance... I am prepared to do that till the children turn 18 years” (Asantewaa, 47 years, trader, 17 years relationship, two children).

Madam Asantewaa’s narrative reveals the complexities involved in enforcing ADR settlements, particularly in cases where one party consistently fails to fulfill their obligations. Her statement reflects her determination to enforce the child maintenance agreement through repeated legal actions, specifically by causing the arrest of the non-compliant party. The reliance on arrest as a means of enforcement illustrates the limitations of the court/ CCADR when it comes to compelling compliance. The repeated need to enforce the agreement through arrest likely places an emotional and financial burden on Madam Asantewaa. While ADR can lead to satisfactory resolutions, enforcing these outcomes is a significant challenge, especially when one party fails to comply. However, enforcement mechanisms within CCADR fall under court procedures, as CCADR operates within the legal framework. This makes enforcement a broader issue within the legal system, not just specific to CCADR cases.

On the contrary, non-Compliant parties also expressed that the law is skewed to one gender and does not take on a holistic approach. The ex-lover also explained in the following:

“...My car has broken down, I am not working, what should I do? I am not afraid anymore. Beyond the arrest what again can she do?” (Mr. Ransford, 51 years, Commercial Driver, 17 yrs relationship, two children).

Mr. Ransford mentions his car breaking down and being out of work, highlighting the financial difficulties he faces. These economic challenges can be a significant barrier to fulfilling the obligations set forth in an ADR settlement, particularly if the settlement involves financial payments like maintenance or compensation. However, Mr. Ransford appears to have reached a point of psychological resignation. He seems to have accepted the possibility of legal consequences, such as arrest, and questions what further actions could be taken against him. This resignation may stem from a perceived lack of options or a belief that the enforcement process has reached its limit. Defiance, in this context, may arise from a combination of frustration, perceived injustice, or a belief that the enforcement measures are disproportionate or ineffective. This attitude can undermine the effectiveness of ADR settlements, as one party may no longer be motivated to comply.

In summary, while (CCADR) provides judicial enforcement, ensuring compliance remains a challenge, especially when one party is unwilling or unable to meet their obligations.

6.10 Lived Experiences of CCADR Users

In her 2007 article, "Restorative Justice: What Is It and Does It Work?" Carrie Menkel-Meadow examined the principles, practices, and outcomes of restorative justice, particularly focusing on how these methods influence the lived experiences of those involved in the legal process. The article concludes that while restorative justice can offer meaningful and positive experiences for many participants, it is not without challenges and limitations. The effectiveness of the processes depends largely on the specific circumstances and how they are implemented.

This current study's fourth objective investigated the lived experiences of intimates who used CCADR to resolve their dispute. The data revealed that the experiences of participants varied widely and often included a mix of complex emotional, financial, and procedural challenges. More importantly, the findings also reveal that the experiences can also be shaped by factors such as the nature of the dispute, the individuals involved, and the outcomes of the case.

Consequently, participants expressed feelings of anger, sadness, fear, embarrassment, frustration etc. offering a nuanced understanding of the human side of the CCADR process. In all, two broad themes and sub themes were generated for this section: “when love is spent, what remains is insult” and “procedural challenges”. The first theme addresses the emotional and psychological feelings experienced by the participants and the second theme captures the challenges experienced by the participants with the process.

6.10.1 “When Love Is Spent, What Remains is Insult”

The above phrase captures the emotional aftermath of a relationship that has deteriorated. It suggests that when the affection, care, and mutual respect that once held a relationship together are gone, what often remains are negative emotions, such as resentment, bitterness, and anger. These emotions can manifest as insults, harsh words, or other hurtful behaviors, highlighting the pain and conflict that can arise when love fades. The phrase speaks to the darker side of relationships, where the end of love can lead to an environment of hostility rather than amicable separation. Apart from participants sharing their experiences that centered on procedural challenges, majority of the narrations resonate with the phrase above. Thus, most of the negative lived experiences of the participants were attributed to the partners' behavior and not necessarily to the ADR process.

6.10.2 Betrayal and Trust Issues

Quite a number of participants expressed feelings of anger and embarrassment during the mediation session because their partners brought into the discussion several embarrassing issues that needed to be addressed as ancillary to the final settlement agreement. For instance, one participant felt embarrassed because her partner had brought his sexual weakness up for discussion during the course of the mediation. In his opinion, it was not necessary since the wife had resolved to divorce him anyway. In his own words:

"For a woman we have spent a greater part of our lives together, we have a child between us. For whatever reasons you have decided not to marry, why disgrace me like that. That I can't satisfy her in bed... hmmm, was that necessary?" (Mr. Crab, 52 years, auto parts retailer, 19 years relationship, one child).

Mr. Crab's statement reflects a deep sense of anger and humiliation. His frustration stems from the public nature of the accusations made against him, which he perceives as a personal attack on his dignity and masculinity. In the context of ADR, such emotions can complicate the resolution process, as feelings of disgrace may lead to defensive behavior or resistance to compromise. The emotional wounds inflicted during the ADR process can have lasting effects, particularly when sensitive personal issues are brought into the open. This may work against the therapeutic benefit associated with ADR outcomes.

6.10.3 Resentment and perceived Injustice

Many participants voiced feelings of resentment and a deep sense of injustice. They believed that the unfairness they experienced stemmed from partnering with the wrong people, leading to their

current predicament. One participant, who had been imprisoned for failing to pay child maintenance, vividly recounted his experience, reflecting on the impact it had on his life:

"While I was in jail, I realized I was one of the few people who was there for shirking my so-called parental responsibility... When I told the other inmates my story, they did not believe and felt I was initially making the story up. There are a lot of men who don't look after their children, yet they have their peace of mind. If you date a wicked woman, you are doomed" (Mr. Alex, 53, Trader, 17 years relationship, two children).

Mr. Alex's statement reveals a sense of resentment and perceived injustice. He compares his situation to that of other men who, despite neglecting their parental responsibilities, do not face the same consequences or emotional turmoil. This comparison suggests a feeling of unfair treatment, where Mr. Alex feels burdened by the legal process and its outcomes. Although, he is aware that shirking one's parental responsibility is not the right thing to do, he is also aware that those who shirk their responsibilities do not go through any criminal proceedings. Thus, his frustrations are directed to his ex-partner who initiated the criminal proceedings against him.

6.10.4 Fear and Uncertainty about the Future

Some participants also expressed fear and uncertainty about the future in relation to their court action against their partners. According to Murphy & Singer, (2017) when intimate partners initiate court action against their partners, it has the tendency of heightening the conflict, resulting in stress, and feelings of betrayal. The sued partner may feel threatened because it disrupts the fundamental trust, security, and privacy that typically define the intimate relationships. The legal process introduces uncertainty, public exposure, and potential financial and emotional losses, all of which

may significantly impact both partners' well-being and sense of safety. The story of Madam Adwoa who was threatened by the ex-husband for instituting a court action against him expressed feelings of fear for the post-divorce actions of the ex-husband. She lamented that:

"...What will happen when the three years rent expires? This man has already warned me that when the court case is over, I will see... hmmm, weeping." (Adwoa, 42 years, Seamstress, 17 years relationship, 4 children).

Adwoa's statement reveals her deep fear and uncertainty about the future, driven by the expiration of her rent and threats from her partner. This highlights the emotional toll of court cases, as the anticipation of future conflict or hardship can overshadow any relief from the resolution. Ghana's Matrimonial Causes Act (1971) which requires divorcing husbands to provide three years of rent for ex-wives, exposes a gap in the law, particularly for mothers with young children, like Madam Adwoa. Her fear stems from the uncertainty of whether her ex-husband will continue supporting their children beyond the mandated period.

The experiences of Mr. Crab, Alex, and Adwoa illustrate the emotional complexity in court-connected ADR, where feelings of anger, fear, and resentment are interconnected. Understanding these emotions is crucial for mediators to facilitate effective conflict resolution.

6.10.5 Perceived Inadequacy of Compensation

Some participants felt that the compensation offered through ADR was insulting and insufficient, reflecting a broader theme of dissatisfaction with the financial outcomes of the process. One disgruntled participant expressed the following:

"Ok, in my case, I chose to forfeit the compensation because of his attitude. I have really invested in him and the marriage right from the word go. When we got married, we

discovered he had low sperm count. We went to every hospital and followed every medication prescribed. I stood solidly behind him and didn't walk out of the marriage. But once the condition got better, he chose to give birth with another woman and sent a Schnapp to my family that he will not marry me again because of childlessness. So, when he gave me that attitude of paying only 3000 Ghana cedis as compensation to me for all the emotional and psychological pain he has caused me within the eleven years period of marriage, out of the depth of my pain, I just chose to let him go without paying anything because the amount in question is a peanut and insulting” (Madam Sarah, 38 years, Seamstress, 11 years childless marriage).

Madam Sarah's decision to forfeit the 3,000 Ghana cedis compensation in the ADR process reflects her view that it was inadequate and insulting, given the emotional and psychological pain she endured. This highlights a limitation of ADR, where outcomes may not fully address the emotional realities of participants, especially when divorcing husbands are not required to offer compensation beyond their financial means.

Her experience, along with those of Mr. Crab, Mr. Alex, and Madam Adwoa, underscores the need for stricter guidelines in ADR to better account for the emotional and psychological dimensions of intimate partner disputes.

6.10.6 Lived Experiences about Procedural Challenges

Procedural challenges in ADR arise when the established processes and rules designed to facilitate fair and efficient resolution of disputes encounter obstacles. These challenges can include issues such as power imbalances between parties, the adequacy of procedural safeguards, and the potential for bias or unfair practices. Below are a few procedural challenges the study found.

Perceived Lack of Fair Hearing (Child Custody Concerns)

Some participants narrated that they were not given adequate hearing during the mediation session and although, they made the efforts to draw the mediator's attention, it amounted to nothing. One participant had this to say:

"...I don't want to sound very personal or selfish that all my demands should be met, no. But you see some of the demands, at least I should have been given a fair hearing. But when I put it across, I didn't see that kind.....Those boys are not kids. But still, I was not given custody of them. I tried explaining myself, but I was not? Hmmm.... Some of us are... let me put it polite in a way so even though you are not satisfied, you tell yourself this is one of those things and just let it go" (Mr. Asamoah, 52years, Insurance Personnel, 17 years relationship, 3 children).

Mr. Asamoah expressed disappointment with the ADR process, particularly regarding his denied request for child custody. He emphasized his children's maturity and independence, believing they could care for themselves and that his request was practical and well-considered. His experience highlights procedural challenges in ADR, such as the importance of fair hearings, clear communication, and decisions that take personal circumstances into account. Although Mr. Asamoah accepted the outcome, he felt it did not fully meet his expectations of justice. While his perception of unfairness is evident, the ADR process likely prioritized the best interests of the children, focusing on emotional well-being and stability. His case illustrates the complex balance of perspectives, fairness, and communication within ADR proceedings.

In a similar vein, another participant also had this to say:

“...Oh yes I said it but they didn't say anything about it...They asked me if I want the children, I said yes. Although they are with their mother, but I believe that a woman cannot raise a male child like a father that's what I understand. For a female, fine but not a male child. I have so many children in the house and I'm speaking based on my experience” (Mr. Razack, 50 years, trader, 13 years relationship, 3 children).

Mr. Razack also expressed his dissatisfaction with the ADR process, specifically regarding the custody of his children. Though, he clearly communicated his desire to have custody of his children, he notes that the ADR panel did not address or engage with his perspective. His comment, suggests that he felt his input was either dismissed or not taken seriously by the mediators. More importantly, his concerns about the role of gender in parenting, particularly in the upbringing of male children highlights the role of cultural and personal beliefs in custody disputes. He views the father's role as crucial in the upbringing of boys, a perspective that may stem from traditional views on gender roles. His overall experience underscores the challenges related to procedural justice in ADR, particularly when it comes to ensuring that all parties' perspectives are adequately heard and considered.

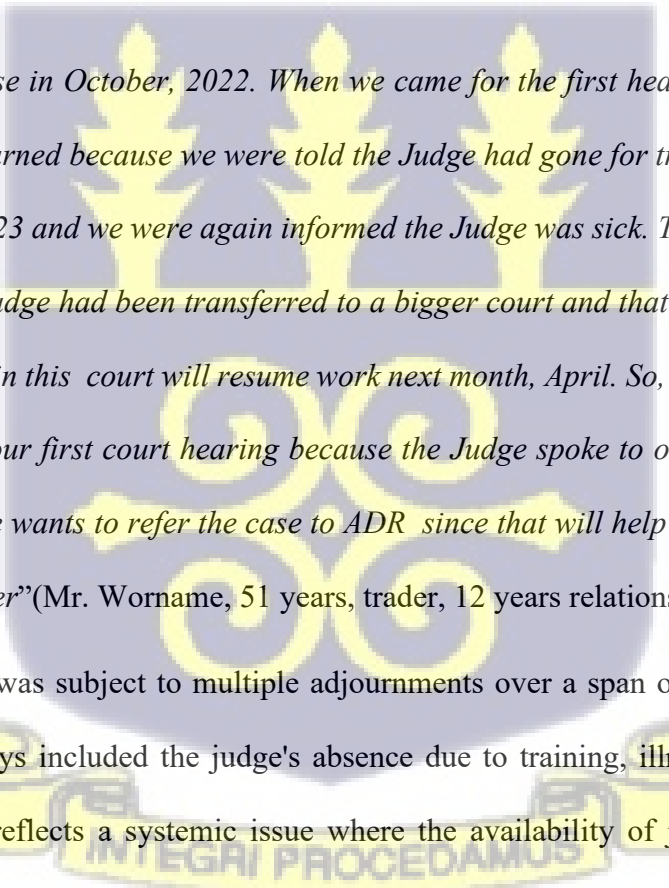
6.11 ADR Journey and Concerns (Court Process and Timing)

The path to seeking justice with the legal structures may be daunting. With the current judicial arrangements, ADR processes have to pass through the adversarial procedure before referral to CCADR. In navigating that process, participants recounted of the challenges they went through as a way of sharing some of their lived experiences with the CCADR. It has been captioned under “the judicial system critique” with three subthemes discussed below.

Judicial System Critique (Frequent Adjournment)

Eight participants shared the challenges they faced in their pursuit of justice, particularly the frequent adjournments of their cases. On average, it took three to four months before their first court hearing. They attributed these delays to several factors, including the unavailability of judges, the failure of their partners to appear on scheduled hearing dates, and the overwhelming number of cases, which led to long delays before trials could commence.

Several participants recounted instances where they arrived at court on the designated hearing date, only to be informed that the judge was absent and their case could not proceed. As one participant explained:



“I filed this case in October, 2022. When we came for the first hearing in December, the case was adjourned because we were told the Judge had gone for training. Then we came in January, 2023 and we were again informed the Judge was sick. The third time, we were even told the judge had been transferred to a bigger court and that the new judge coming to replace her in this court will resume work next month, April. So, the day we reported to the ADR was our first court hearing because the Judge spoke to our lawyers briefly and told us that she wants to refer the case to ADR since that will help in providing amicable resolution faster”(Mr. Worname, 51 years, trader, 12 years relationship, 3 children).

Mr. Worname’s case was subject to multiple adjournments over a span of several months. The reasons for these delays included the judge's absence due to training, illness, and transfer to a different court. This reflects a systemic issue where the availability of judges is inconsistent, leading to significant delays in the administration of justice. These delays can exacerbate the emotional and financial strain on petitioners, potentially diminishing their faith in the legal system.

Another participant also shared his experience as follows:

“ because that day, if the case were to be adjourned, that would be 7 times”(Mr. Mills, 57 years, Insurance Officer, 23 years of childless relationship).

The analysis of Mr. Mills' experience with frequent adjournments highlights significant procedural challenges within the judicial system. Frequent delays, such as the potential seventh adjournment in his case, are attributed to overburdened courts, administrative inefficiencies, and non-appearance of key parties. Additionally, repeated adjournments erode public trust in the judicial system, leading to perceptions of injustice, reluctance to seek legal redress, and potential increases in extra-judicial settlements.

In conclusion, issues such as perceived lack of fair hearing, dissatisfaction with child custody decisions, and the frustration of frequent judicial adjournments underscore the complexities of navigating ADR within the broader legal system. While CCADR holds promise as a flexible and accessible alternative to traditional litigation, these challenges highlight the need for reforms that ensure procedural fairness, address power imbalances, and strengthen the overall efficiency of the system.

6.12 Divorce Dilemmas: Navigating Power, Justice, and Legal Agency in the Afezdie Case

Legal agency refers to an individual's ability to act independently and make informed decisions within the legal system (Holtzworth-Munroe et al., 2021). However, scholars have raised concerns about limited legal agency in (ADR) processes, particularly for individuals marginalized by factors such as class, gender, or socio-economic status, who may struggle to fully exercise their legal rights (Basu, 2012). This issue has sparked significant debate regarding the effectiveness of ADR in application of intimate partner dispute (Davidheiser, 2005; Basu, 2012). This section explores a divorce case from the fieldwork that initially went through ADR, but one party

ultimately rejected the outcome, leading to further litigation. The analysis focuses on the case within the framework of limited legal agency.

6.12.1 The Afezdie Divorce Case: An Analysis of Legal Agency in ADR and Litigation

Outcomes.

The divorce case between Mr. and Mrs. Afezdie offers a compelling illustration of how different dispute resolution processes (ADR) and litigation can produce significantly varied outcomes, particularly when viewed through the lens of limited legal agency. This analysis delves into the dynamics of power, economic constraints, and social pressures that shape individuals' experiences within legal frameworks, and how these factors influence their decisions and interactions with justice-seeking mechanisms.

6.12.1.1 Background of the Case

Mr. and Mrs. Afezdie were married for 23 years and resided in Accra in a jointly acquired matrimonial home. The marriage produced no children. Mr. Afezdie, who holds a tertiary education qualification, is employed in the formal sector with an Insurance firm, while Mrs. Afezdie, who has vocational training, runs a small bead-making business from their home. Mr. Afezdie had begun constructing a three-bedroom house for Mrs. Afezdie in her hometown, intending it for her use during visits. However, after series of misunderstandings mainly surrounding the fertility issues, the couple decided to end the marriage and filed for divorce.

After the case experienced six adjournments in court, both parties' lawyers agreed to the judge's suggestion to transfer the case to CCADR for mediation. The mediation process, which did not involve the legal representatives, was completed in two sessions over a one-month period. Mediation sessions can be carried out in attendance with disputants' legal representatives or not

depending on the party's choice. The outcome of the CCADR was that Mr. Afezdie would complete the house in his ex-wife's hometown, provide her with three years' rent for alternative accommodation, and give her a cash compensation of GHC 25,000.00.

The ADR outcome emphasized non-monetary considerations and provided a resolution that included both financial compensation and provisions for housing. The decision to include the completion of the house in the wife's hometown and three years of rent indicates a focus on her future stability and security, addressing immediate practical needs rather than just financial compensation.

6.12.1.2 Mrs. Afezdie's Rejection of the ADR Outcome

Despite the resolution reached in CCADR, Mrs. Afezdie rejected the settlement and decided to pursue litigation for a different outcome in the division of joint properties when they appeared before the judge for adoption of the settlement agreement. Her dissatisfaction with the CCADR outcome and her subsequent actions revealed significant insights into the concept of legal agency and the power dynamics at play in the legal process. Mrs. Afezdie explained her rejection of the ADR outcome, stating:

“After he outwitted me in your ADR, I informed my family and they got a lawyer for me; (GHC 10,000 for consultation and transportation of GHC 300 per each court hearing). Even though the family supported me with the legal fees... I had to pay for the transportation allowance and that of transporting myself to the court anytime there was a hearing. It was not easy for me but at the end of the day, she has helped me to get this money” (Ex-Mrs. Afezdie, 54 years, bead maker, 23 years of childless marriage).

This quote underscores her perception of being disadvantaged during the mediation sessions of the CCADR, which she attributed to several factors, including her limited literacy, which hindered her ability to articulate her position effectively, and her lack of adequate legal representation, having relied on lawyers provided by Ghana Legal Aid. The decision by her family to engage a private lawyer after the ADR outcome despite the considerable financial burden, illustrates a crucial acknowledgment of her constrained legal agency within the ADR framework. Without the advocacy and support of competent legal counsel, she felt vulnerable and unable to secure a just outcome, which ultimately led her to pursue a resolution through litigation.

6.12.2 The Litigation Outcome and Its Implications

When the case returned to court, the litigation process, which lasted 13 months, resulted in a significantly different outcome. The court only considered the matrimonial home as the sole joint property to be shared. It was divided on equitable grounds of 65% for Mr. Afezdie and 35% for Mrs. Afezdie respectively. The court ordered for the sale of the house with the proceeds shared equitably or Mr. Afezdie to pay GHC 273,700.00 corresponding to 35% of Mrs. Afezdie's share in the matrimonial home after it was valued. Since Mr. Afezdie agreed to the latter, he was asked to pay the said amount within a time frame of two months or risk incurring more financial damage. This outcome not only provided her with a more substantial financial settlement but also reflected a more formal and structured approach to justice, where legal rights and obligations were clearly defined and enforced. For instance, the financial outcome also introduced significant economic pressures, particularly for Mr. Afezdie, who was to complete the payment within a specified duration or face additional penalties.

The litigation outcome, in contrast, was purely financial, focusing on the division of the joint acquired matrimonial home. The court's decision to award Mrs. Afezdie 35% of the home's value

in cash may be seen as more predictable and less open to manipulation than ADR. The litigation process, despite its length and cost, afforded Mrs. Afezdie a sense of agency that she felt was lacking in ADR. By involving legal professionals, she was able to navigate the complexities of the legal system more effectively, ultimately securing an outcome that she deemed more just.

From the standpoint of limited legal agency, the litigation process may have provided Mrs. Afezdie with a more structured and legally enforceable resolution, but at the cost of significant time, legal fees, and emotional stress. The emphasis on monetary compensation may also fail to address other aspects of Mrs. Afezdie's needs, such as housing stability or emotional security that were considered in the ADR outcome.

More importantly, a close consideration at the accumulated legal fees, the 13 months spent in litigation, and the loss of productive time, it becomes evident that the difference between the ADR outcome and the litigation outcome is not substantial. For instance, Mr. Afezdie explained that some of the delays could be attributed to financial challenges on the part of Mrs. Afezdie:

".... because that day, if the case were to be adjourned, that would be 7 times... before the last adjournment, she was told that there are some responses that they have to do, which she hasn't done. And apparently, I believe all boils down to money matters. Because you know the court system each paper that you file, it comes with a cost. I think I have filedEvidences to the cost of almost GHS 900. The legal fees are not even part. When you go to court, you have to pay a lot of money, isn't it? "

The financial strain and logistical challenges associated with accessing legal remedies are evident. The process ultimately enriches the legal representatives while leaving the parties involved financially depleted. The adversarial nature of litigation also has the tendency of exacerbating power imbalances, particularly if one party has more resources or better legal representation.

6.12.3 *The Role of Legal Representation in Enhancing Legal Agency*

Mr. Afezdie's account of the subsequent court proceedings further illustrates the critical role of legal representation in navigating legal disputes. He recalled how Mrs. Afezdie's lawyer justified the return to litigation:

“Her lawyer told the Judge that they have always advocated for ADR attendance to be done with the lawyers to the parties in attendance because they were making a claim that she was coerced to accept all those agreements” (Mr. Afezdie, 57 years, Insurance Officer, 23 years of childless marriage).

This statement highlights concerns about the possible power imbalance in ADR when parties lack legal representation, making them vulnerable to coercion or pressured settlements that may not fully reflect their interests. Those with more resources, social capital, or legal knowledge can dominate the proceedings, a problem particularly acute for women who may face additional social pressures and limited resources. However, this issue is not exclusive to ADR; it also exists in adversarial legal systems, where access to quality legal representation significantly influences outcomes. Wealthier parties often have an advantage, while those with fewer resources may face unjust results. Mrs. Afezdie's experience exemplifies how the absence of legal counsel in ADR can lead to perceived inequities, prompting her to seek a more favorable outcome through litigation. Additionally, gender dynamics play a role, as cultural norms and economic dependency can further disadvantage women in ADR. Mrs. Afezdie's lawyer emphasizes the importance of legal representation to protect women's interests and ensure fair outcomes in such processes.

6.13 Conclusion

This chapter presents the key findings from the qualitative analysis of participants' experiences with Alternative Dispute Resolution (ADR) in intimate disputes, particularly within the context of

Court-Connected ADR (CCADR) in Ghana. The research uncovered a range of themes that reflect both the strengths and limitations of ADR, emphasizing its role as a tool of empowerment and a flexible alternative to formal litigation, while also highlighting areas where it falls short in addressing participants' emotional and psychological needs.

One of the central findings is the empowerment ADR provides for marginalized individuals such as Nana Afia, who benefited from accessible legal aid and cost-effective resolution processes. Similarly, Mrs. Agyei's experience with ADR revealed its coercive power over informal mechanisms, where parties might otherwise walk away from mediation. However, ADR's structured environment requires participants to see the process through, privileging it over informal structures.

Despite these advantages, the findings highlight significant challenges with enforcing ADR outcomes. Participants like Madam Asantewaa and Mr. Ransford expressed frustration with the time-consuming, costly, and emotionally draining process of repeatedly seeking enforcement when one party fails to comply. While CCADR offers judicial enforcement, the issue lies within the broader legal system, reflecting a general challenge in ensuring compliance.

The findings also revealed gaps in ADR's ability to address emotional and psychological needs, as seen in Madam Sarah's experience. Participants often felt anger, fear, and frustration, which could affect their engagement with the ADR process.

The chapter concludes that while ADR offers a flexible, accessible, and participatory approach to conflict resolution, its effectiveness is limited by weak enforcement mechanisms and insufficient consideration of participants' emotional and psychological well-being. Strengthening ADR's enforcement structures and incorporating more empathetic, nuanced approaches to intimate

disputes is essential to ensuring that outcomes are fair, comprehensive, and reflective of the real-life complexities participants' face.

CHAPTER 7

DISCUSSION OF RESEARCH FINDINGS

7.1 Introduction

This chapter discusses the findings of the data collected from participants of court connected ADR mechanisms, particularly within the context of intimate partner disputes. The study draws on the theoretical framework of legal consciousness, as articulated by Ewick and Silbey (1998), to unpack the complex ways in which participants navigate legal processes, form their perceptions of justice, and interact with legal institutions. The participants' experiences, as revealed through this lens, are multifaceted and deeply intertwined with their cultural, social, and personal contexts.

The discussion is organized around seven key themes that emerged from the data, each offering a unique perspective on the participants' encounters with CCADR. These themes are: the Procedure for Court-Connected ADR, leveraging ADR as a bridge between rigid legal structures and flexible informal mechanisms, navigating the challenges posed by cultural and social norms, the role of ADR as a tool for empowerment and giving voice to the marginalized, the participants' satisfaction

with the outcomes of ADR, and the lived experiences of ADR users, which shed light on the limitations of their legal agency.

Through these themes, this chapter aims to provide a comprehensive understanding of how Court-Connected ADR serves as both a formal legal mechanism and an informal process that resonates with the lived realities of its users. The discussion examines the ways in which ADR facilitates or hinders access to justice, empowerment, and the re-negotiation of social and cultural norms within the framework of intimate disputes. By connecting these insights with the broader literature, this chapter contributes to a deeper understanding of the role of ADR in contemporary legal systems and its implications for those who seek justice through these alternative pathways.

7.2 Harmonizing Legal Rigidities with Informal Flexibility in Dispute Resolution

Court-Connected Alternative Dispute Resolution (CCADR) in Ghana serves as an intermediary between rigid formal litigation and flexible informal mechanisms, offering a balanced approach to dispute resolution (Folberg et al., 2004; Hilliday & Morgan, 2013). This analysis, through the lens of legal consciousness, illustrates how ADR allows individuals to navigate the legal landscape by combining the enforceability of formal processes with the relational benefits of informal methods. Participants like Mr. Adu, Mr. Amakye, Mrs. Osborn, and Madam Efua demonstrate how ADR can effectively mediate between these two realms. Mr. Adu preferred CCADR to avoid the complexities and public exposure of traditional litigation, influenced by personal connections and a desire for privacy. His approach aligns with Davidheiser's (2005) findings that long-term relationships often seek constructive conflict resolution methods. Mr. Amakye's experience with a judge facilitating ADR highlights the judiciary's role in shaping legal consciousness and addressing procedural stagnation (Vasagan, 2022).

Mrs. Osborn's use of ADR reflects the importance of maintaining post-separation harmony for the benefit of children, aligning with Emery et al.'s (2011) study that found ADR fosters positive post-separation relationships. Madam Efua's case illustrates ADR's ability to address enforceability issues of informal agreements while providing a structured yet flexible resolution (Emery, 2019).

The literature supports ADR's role as a bridge between rigid and informal mechanisms, offering a less intimidating pathway for individuals deterred by formal litigation (Gnaedinger, 1987). Menkel-Meadow (2004) argues that ADR humanizes the legal process by emphasizing communication and empathy, which is evident in Mrs. Osborn's case.

Trubek et al. (1981) argue that legal consciousness, that is, the way individuals perceive and engage with the law shapes how people approach and resolve conflicts. This consciousness is heavily influenced by social and cultural norms, and it plays a crucial role in determining the acceptability and effectiveness of (ADR). In the Ghanaian context, where it is often frowned upon to involve family matters in formal legal matters, legal consciousness reflects an understanding that people carefully evaluate their relationships before deciding which conflict resolution method to pursue. This decision-making process aligns with a broader legal culture that prioritizes maintaining social harmony and familial bonds over adversarial legal procedures.

As a result, many Ghanaians, including participants in the fieldwork, explored various informal methods of dispute resolution such as family mediation, community elders, or religious leaders before turning to the court system as the last resort. Even when the court was eventually involved, participants expressed a preference for ADR processes like mediation, which offered a more civil and less confrontational means of resolving disputes. This highlights how legal consciousness in Ghana aligns with the social emphasis on preserving relationships, as ADR offers a way to address grievances without the antagonism often associated with formal litigation. Moreover, even when

partners sought justice through the formal legal system, they often go through an intricate process of analysis, considering the potential social, emotional, and financial impacts of their decision. This introspection is deeply tied to legal consciousness, as individuals weigh the benefits against the challenges of pursuing justice through the courts. Scholars such as Merry (1990) and Ewick and Silbey (1998) have discussed how legal consciousness influences the way individuals navigate legal systems, particularly in contexts where social norms and values shape how justice is perceived

Overall, ADR effectively bridges the gap between rigid formal laws and flexible informal practices, addressing both the emotional and practical needs of disputants while balancing enforceability and flexibility.

7.3 Agency in the Face of Adverse Cultural and Social Norms: ADR as a Navigational Tool

In societies where customary laws and traditions hold significant sway, individuals often find themselves constrained by rigid and sometimes inequitable social norms. The use of ADR as a tool to navigate these norms emerged as a critical finding (theme) under the motivations behind intimate partner's use of ADR in Ghana, particularly in the context of family dynamics and inheritance disputes. This discussion explores how ADR provides a structured yet flexible platform for individuals particularly women to challenge and transcend dominant customary practices that did not serve their best interests. By examining the narratives of such participants, the discussion weaves in relevant literature and the theory of legal consciousness to provide a comprehensive understanding of ADR's role in empowering individuals within customary law systems.

7.3.1 Challenging Customary Norms through ADR

The narratives of participants underscore the potential of (ADR) to challenge and navigate entrenched customary practices, particularly those related to polygamy and inheritance. Mrs. Green's account, for instance, vividly illustrates her resistance to the customary practice of a "stool wife" within the chieftaincy institution in Ghana. According to Awuah-Nyamekye (2009), a stool wife is a woman married to a chief or king as a symbol of his authority and connection to the chieftaincy. Such a marriage is not merely a personal union but a public and symbolic one, reflecting the chief's bond with his people. The stool wife often fulfills ceremonial and supportive roles within the chieftaincy, and the marriage is intrinsically tied to the stool (i.e., the chieftaincy institution), rather than solely to the individual chief. Notably, her status and responsibilities persist even after the chief's death, as her allegiance remains with the stool and its subsequent occupants. Mrs. Green's proactive stance in rejecting this dominant custom, which permits his husband, a chief to engage in polygamous marriages under the guise of tradition, highlights the capacity of ADR to facilitate more equitable resolutions that align with individual interests rather than being dictated solely by customary norms. Through the ADR process, Mrs. Green successfully navigated a peaceful divorce and ensured the protection of her children's inheritance, thereby asserting her rights and challenging traditional expectations within the chieftaincy framework. This case exemplifies how ADR can serve as a powerful tool for individuals to resist and reformulate customary practices, fostering outcomes that better reflect their personal values and legal rights

The finding above aligns with literature that identifies ADR as a mechanism for navigating social and legal pluralism, particularly in contexts where formal legal systems may be less accessible or responsive to the needs of marginalized individuals, or too structured (Grillo, 2015). For instance, a study by Ubink (2008) demonstrated how ADR was engaged to mediate land disputes in peri-

urban Ghana, where customary laws often played a significant role. The research showed that ADR could offer more equitable solutions by allowing parties to negotiate outcomes that deviated from strict customary practices, particularly when those practices were seen as unjust. Similarly, Braithwaite (2002) examined how restorative justice, a form of ADR, was used to address customary practices that though were not criminal but were still harmful or unjust. The study underscored the importance of dialogue and community involvement in reshaping such practices in ways that are fair and just for all parties. More importantly, Syahrudin et al., (2020) discussed the interplay between ADR and customary laws in Indonesia, highlighting how ADR processes could adapt customary practices to better meet the needs of contemporary society. The study supported the notion that ADR could provide a forum for challenging and modifying customary norms in ways that are respectful and culturally appropriate. Furthermore, Nolan-Haley & Annor-Ohene (2014) emphasize that ADR allows for the respectful adaptation of customary laws to align with modern legal and ethical standards, ensuring fairness while preserving cultural values.

According to Ewick and Silbey (1998), legal consciousness refers to the way people perceive and interact with the legal system, which can explain why individuals may choose to engage with or avoid the law when facing a dispute. In the case of Mrs. Green, her decision to turn to the legal system was influenced by the dominant cultural expectations surrounding her husband's new position. Society expected her to conform to traditional norms and remain in the polygamous marriage, reinforcing gendered power dynamics. These cultural norms prioritized family and community harmony over individual rights. However, none of the informal mechanisms she engaged with were able to understand or validate her perspective. These traditional avenues, deeply embedded in cultural practices, often failed to account for her individual experiences and concerns. This aligns with Merry's (1990) analysis of legal pluralism, which highlights how

traditional dispute resolution systems can reinforce societal norms that marginalize women and limit their legal agency. In Mrs. Green's case, the informal systems were unable to provide a space where her voice could be heard outside of the cultural framework that favored her husband's position.

Turning to the formal legal system, Mrs. Green found an avenue that recognized her individual agency, offering her the autonomy and liberation she sought. Unlike the informal processes, which were shaped by a dominant culture that did not prioritize personal liberty, the legal system provided her with the opportunity to challenge these norms and advocate for her own rights. This mirrors the findings of Silbey & Cavicchi (2005) who suggest that individuals often turn to formal legal mechanisms when they feel that informal systems fail to provide the justice or recognition they seek. In this context, the legal system served as a counterweight to the cultural expectations that subordinated her individual rights. As Engle & Munger (2003) observes, formal legal systems can sometimes offer a critical escape from the oppressive features of traditional dispute resolution, especially for women who are marginalized within patriarchal structures. By engaging the law, Mrs. Green was able to resist being constrained by the dominant culture, which did not respect her individual liberty or allow her to assert her own needs in the face of familial and societal pressure.

Studies such as that of Basu (2012) support the idea that legal systems, particularly in post-colonial contexts, can provide marginalized individuals with a platform for asserting rights that are otherwise suppressed by local norms. In this case, the law offered Mrs. Green a path to liberation from a cultural framework that diminished her autonomy and reinforced traditional gender roles.

Ultimately, Mrs. Green's decision to engage the legal system demonstrates the relevance of legal consciousness in shaping individuals' pursuit of justice. Her case highlights the tension between individual rights and collective cultural expectations, illustrating how formal legal institutions can

provide an alternative space for those seeking to challenge oppressive social norms. In doing so, it underscores the importance of formal legal systems in promoting individual agency, particularly in contexts where cultural practices may limit personal liberty.

These studies and findings collectively illustrate that ADR offers a unique platform for addressing and reforming customary laws that may be outdated or unfair, by allowing for flexibility, negotiation, and cultural sensitivity in the resolution process. ADR's flexibility allows for the incorporation of personal values and interests, enabling disputants to achieve outcomes that may not be possible within the confines of rigid customary laws.

7.3 2. The Intersection of Financial Strain and Customary Law

Madam Zeinab's narrative further illustrates the complexities of navigating customary norms, particularly in polygamous family structures. Her concerns about financial strain, exacerbated by the addition of more wives and children, highlight the practical difficulties associated with polygamy in contexts where resources are limited. Her reliance on extended family members for financial support reflects a broader issue within customary law systems, where provisions for spousal and child support may be insufficient or poorly enforced.

This finding is consistent with studies that have critiqued customary law practices for their failure to adapt to modern economic realities, particularly in relation to gender and family dynamics (Bennett, 2019). Customary laws, that are often rooted in patriarchal structures, may perpetuate inequalities by prioritizing the interests of male heads of households, leaving women and children vulnerable (Nyamu-Musembi, 2002; Omale, 2006). ADR, by contrast, offers a platform for individuals to voice their concerns and negotiate more equitable solutions, thus challenging the status quo.

7.3.3. Legal Consciousness and the Role of ADR

The theory of legal consciousness is particularly relevant to this discussion, as it helps to contextualize the ways in which individuals perceive and engage with the law in their daily lives. Legal consciousness, as defined by Ewick and Silbey (1998), refers to the way people understand and experience the law, whether through formal legal institutions or alternative mechanisms like ADR. Mrs. Green's and Madam Zeinab's narratives reflect a form of "legal consciousness" that is both resistant and agentic. They are not passive recipients of customary law but active participants in shaping legal outcomes that better serve their interests.

Mrs. Green's decision to use ADR to protect her children's inheritance, despite the cultural expectation of polygamy, illustrates a conscious engagement with legal norms that transcends traditional practices. Similarly, Madam Zeinab's use of ADR to exit a polygamous marriage that she perceives as financially and emotionally unsustainable reflects a critical awareness of her legal rights and options. These examples underscore the potential of ADR to empower individuals to redefine their legal consciousness in ways that align with their personal values and needs.

7.3. 4. Contrasting Views and the Limits of ADR

When advocating for rights and emphasizing the crucial struggle to secure and expand these rights for marginalized groups, it is essential to approach the use of informal justice with caution. We must be mindful of the potential consequences that informal justice can have on individuals who do not possess legal rights (Basu, 2012). While the benefits of ADR are evident in these narratives, it is also important to consider critiques and limitations. Some scholars have argued that ADR, by operating outside of formal legal systems, may lack the enforceability and consistency needed to ensure justice, particularly in deeply patriarchal or hierarchical societies (Seron et al., 2001).

Others caution that ADR may inadvertently reinforce power imbalances, particularly when disputants lack equal access to resources or legal knowledge (Merry, 1990).

In the case of Madam Zeinab, her reliance on ADR to exit a polygamous marriage raises questions about the broader implications for women who may not have the same level of support or resources to pursue such avenues.

7.3.5. Conclusion: ADR as a Pathway to Justice

The analysis of the participants' experiences illustrates the transformative potential of ADR in navigating and challenging unpleasant cultural and social norms. By offering a flexible and personalized approach to dispute resolution, ADR empowers individuals to achieve justice in ways that may not be possible within formal legal or customary systems. However, the effectiveness of ADR is not without its challenges and limitations, particularly in contexts where power imbalances and resource disparities persist.

The integration of legal consciousness theory into this discussion provides a deeper understanding of how individuals engage with the law, not just as a set of rules to be followed, but as a dynamic process that they can shape and influence. Ultimately, ADR serves as a vital tool of agency, enabling individuals to assert their rights and interests in the face of rigid and often inequitable customary norms. Yet, the potential of ADR to achieve justice must be balanced with a critical awareness of its limitations and the broader social and legal contexts in which it operates.

7.4 Enhancing Agency and Voice for the Marginalized Through ADR

The role of Alternative Dispute Resolution (ADR) as a tool of empowerment for marginalized individuals emerged as an outcome of ADR use among intimate partners. The fieldwork revealed that ADR offers a more accessible, cost-effective, and participatory approach to conflict resolution,

contrasting sharply with the often intimidating, costly, and complex traditional litigation (Davidheiser, 2005). This section of the discussion explores the theme by focusing on how it enabled marginalized individuals to regain control over their legal processes. Through the lens of legal consciousness theory, the discussion connects empirical findings with relevant literature to underscore the transformative potential of ADR in providing voice and agency to those who are often silenced within the formal legal system.

7.4.1 The Role of ADR in Empowering the Marginalized

A significant barrier to justice for marginalized individuals is the cost associated with traditional litigation. Studies indicate that ADR can significantly reduce the financial burden on participants, making legal redress more attainable for those with limited economic means (Blake et al., 2016; Goldberg, 2014). The cost-effectiveness of ADR is not only a matter of reducing direct expenses, such as legal fees, but also of minimizing the indirect costs associated with prolonged litigation, such as time away from work and emotional stress (Rosenberg & Folberg, 1994). By offering a quicker and more affordable resolution process, ADR enables marginalized individuals to pursue justice without the fear of financial ruin (Il & Trautman, 2023). This aspect of ADR is particularly important in contexts where traditional litigation is not only expensive but also culturally intimidating, as in many African settings (Amoasi, 2021).

The fieldwork brought some of these findings to bear through the case of Nana Afia, a 44-year-old seamstress mother of four children whose husband had decided not to pay any remittance for the up-keep of the children. With direction of a friend and assistance from Ghana legal Aid services, the financial barriers preventing her access to the justice system was removed.

Apart from financial barriers, another significant aspect of ADR is its ability to provide marginalized individuals with a voice in the resolution process. Traditional litigation can be

alienating for those who lack legal expertise, often reducing their role to that of passive observers while lawyers and judges dominate the proceedings. In contrast, ADR encourages active participation, allowing disputants to articulate their needs and concerns directly (Coleman et al, 2015). This participatory approach is crucial in empowering individuals who have historically been marginalized within the legal system.

Studies by Menkel-Meadow (2001) and Nader (2002) collaborate the view that ADR offers marginalized individuals' greater agency by allowing them to voice their concerns in a setting that values their input. Nana Afia's narrative highlights the importance of voice and participation in the ADR process. Her active involvement in mediation, facilitated by Ghana Legal AID, allowed her to influence the outcome of her case directly. This contrasted with her initial reluctance to engage with the formal legal system due to its perceived complexity, language, cost and dominated by legal professionals. It further contrasts with the disempowering experience she might have had in a traditional courtroom setting. The ability to speak and be heard within the ADR process not only fosters a sense of agency but also contributes to more equitable outcomes, as the resolutions are more likely to reflect the disputants' real needs and interests (Mueller, 2009). Thus, ADR consistently highlights its potential to empower marginalized groups by providing them with a more inclusive and equitable approach to conflict resolution.

Davidheiser, (2005) explains that mediation in The Gambia is typically normative and evaluative, sometimes coercive, but also empowering for weaker parties, particularly women. Despite gender biases that often pressure women to be patient and forgiving, women actively seek mediation to address issues like financial neglect, mistreatment, and dissatisfaction. Mediators, who are often community insiders, use their influence to pressure stronger parties (usually husbands) to make concessions, leading to outcomes that benefit the weaker parties.

Davidheiser, argues that in The Gambia, mediation is not only about maintaining harmony but also about upholding rights and justice. Mediators invoke shared norms and ethical standards to ensure fairness, and the involvement of kinfolk and community members in the mediation process often empowers weaker parties, enabling them to achieve positive outcomes. He concludes that Gambian mediation, despite its challenges, provides a supportive environment for addressing power imbalances and securing justice for marginalized individuals.

Jennifer Maxwell's article (1999) on mediation between current or former spouses with a history of domestic violence highlights the significant challenges mediators face when dealing with extreme power imbalances. Maxwell argues convincingly that mediation may be unsuitable in such cases. However, she acknowledges that this may not hold true in contexts where the community plays a role in the mediation process. The involvement of family members and community members can help to balance the power dynamics, which is often the case in marital and divorce mediations in The Gambia.

7.4.4 Community Support and ADR

The role of community and peer support in accessing legal services cannot be understated. As seen in Nana Afia's case, the referral by a friend to Ghana Legal AID played a pivotal role in her decision to pursue justice. This highlights the importance of informal networks in directing marginalized individuals to appropriate resources and providing moral support throughout the process. Studies by Merry (1990) and Schoeneman (2015) have emphasized the significance of community support in accessing justice, particularly in contexts where formal legal institutions are viewed with suspicion or are inaccessible due to economic or cultural barriers. For instance, studies conducted by Mueller et al., (2019) in Tanzania revealed that community networks played a crucial role in helping marginalized members, especially women in rural areas, access legal assistance and

strengthened their land rights through free legal aid and education. Similarly, Davidheiser, (2005) notes that while there are concerns about power imbalances in mediation, especially in marital disputes, Gambian mediation often counterbalances these disparities by involving community members and leveraging shared norms, customs, and religion.

In many African societies, where communal ties and social networks are strong, such referrals can be instrumental in bridging the gap between marginalized individuals and the legal services they need. The community's role in facilitating access to ADR aligns with traditional dispute resolution practices, where elders and community leaders play a central role in mediating conflicts. For instance, legal empowerment training has been deemed to greatly enhance access to justice for vulnerable women in disadvantaged communities in South Africa (Durojaye et al., 2020). This cultural resonance enhances the acceptability and effectiveness of ADR in these settings, further empowering individuals by situating the resolution process within a familiar and supportive social framework (Olusegun & Oyelade, 2021).

7.4.5 Legal Consciousness and Empowerment

For marginalized individuals, the legal consciousness is often marked by feelings of powerlessness and exclusion within the formal legal system. ADR, however, offers a pathway to shift this consciousness from a state of marginalization to one of empowerment.

In the case of Nana Afia, a participant in this study, her narrative reveals how ADR facilitated a transformation in her legal consciousness. Initially, she was overwhelmed by the prospect of pursuing justice through traditional litigation, primarily due to the anticipated financial burden and the complexity of the legal process. From the Lense of legal consciousness, Ewick and Silbey (1998) confirm that, beyond internal factors such as socialization, external factors also play a significant role in shaping individuals' responses to disputes. While social norms and cultural

expectations are internalized and influence how people engage with conflict, external barriers such as access to resources, financial constraints, and legal knowledge can also heavily impact the decision-making process.

In the case of the participant, although she felt a strong desire to engage the legal system, she was constrained by financial barriers. This highlights the importance of external factors in determining how individuals navigate the legal landscape. Even when there is an internal motivation to seek justice through formal means, external challenges like the cost of legal representation or court fees can prevent people from accessing the law.

This aligns with studies such as Basu (2010) and Merry (1990), which emphasize how financial limitations often restrict marginalized groups, particularly women, from fully engaging with legal systems. Even when individuals are aware of their legal rights and are inclined to pursue them, the costs associated with litigation or legal services can be prohibitive, leading them to seek alternative, often informal means of resolution that may not fully address their needs or grant them the justice they seek. Therefore, while internal socialization processes shape the perception of legal systems, external factors like financial barriers remain significant obstacles that can limit the exercise of legal agency. This underscores the need for accessible legal aid and affordable dispute resolution mechanisms, particularly in contexts where socio-economic challenges prevent individuals from fully participating in formal legal processes.

The participant's interaction with Ghana Legal AID, which guided her through the legal process, demystified the legal system and enabled her to engage with it on her terms. This experience aligns with the notion that ADR can shift individuals' legal consciousness from a perception of law as a distant and unapproachable force to one of a more accessible and supportive system.

The findings of this study underscore the transformative potential of ADR in empowering marginalized individuals by providing them with greater control over their conflict resolution processes. Through the lens of legal consciousness theory, it is evident that ADR can shift individuals' perceptions of the law from a distant and intimidating force to a more accessible and supportive mechanism for justice. The literature supports the view that ADR offers a more equitable, cost-effective, and participatory approach to conflict resolution, making it particularly valuable for marginalized groups. Ultimately, ADR serves as a vital tool in promoting justice and equity for marginalized individuals, offering a pathway to legal redress that is both accessible and empowering.

7.5 The Impact of ADR on User Satisfaction in Intimate Partner Dispute Resolution

User satisfaction with Alternative Dispute Resolution (ADR) outcomes in intimate disputes is a critical measure of the process's effectiveness. While ADR is often lauded for its flexibility, cost-effectiveness, and ability to foster a less adversarial environment, the subjective experiences of participants can vary significantly. This section of the discussion examines the mixed responses to ADR outcomes among participants, highlighting the factors that contributed to satisfaction or dissatisfaction. By exploring these experiences through the lens of legal consciousness and interconnecting them with relevant literature, it provides a nuanced understanding of the complexities involved in achieving satisfactory ADR outcomes, particularly in emotionally charged intimate disputes.

7.5.1 Satisfied Users: The Role of Mediator Competence and Procedural Fairness

The success of Alternative Dispute Resolution (ADR) heavily relies on the expertise, integrity, and neutrality of mediators. Research by Wissler (2004) shows that mediators adhering to

impartiality and confidentiality principles foster trust and constructive dialogue, leading to higher satisfaction rates, as demonstrated by Madam Comfort's praise for a fair and empathetic mediator. However, concerns about bias, particularly in cases involving power imbalances, persist. Mr. Onomah's dissatisfaction with a perceived bias in a custody dispute highlights this issue. Greenberg (2020) notes that mediator integrity is key to delivering justice, while Li & Cheung (2020) found that skilled mediators improved communication and mutual understanding, leading to more positive outcomes. Similarly, Emery et al. (2011) emphasized the role of mediators in fostering better post-separation relationships. Conversely, Devasagayam and Shaw (2010) identified issues in divorce mediation when mediators lacked experience or neutrality, exacerbating power imbalances. Rypi (2016) also stressed the importance of mediator behavior in enhancing participant satisfaction. These studies collectively underscore the need for rigorous training and ethical standards for mediators to ensure fair and effective ADR outcomes.

7.5.2 The Impact of ADR Environment on User Satisfaction

The environment in which (ADR) occurs is a critical factor influencing participants' satisfaction and the overall effectiveness of the process. The success of these processes is not solely dependent on the methods used but also on the context in which they are implemented. Factors such as the neutrality of the setting, the demeanor of the mediators, and the procedural dynamics can all significantly impact how participants perceive the fairness, efficacy, and outcomes of ADR.

Participants appreciated the calm, peaceful setting, which contrasted with the more formal and intimidating atmosphere of traditional courtrooms. This "family-like" environment contributed to their comfort and willingness to engage fully in the process. This finding resonates with research by Li & Cheung (2020), suggesting that the less adversarial, the more collaborative nature of ADR can lead to higher satisfaction, particularly in disputes that involve ongoing relationships.

Goldberg (2014) explored the physical and procedural environment in which mediation occurs and concluded that it can influence mediators' decisions and, consequently, participants' satisfaction with the process. Similarly, Menkel-Meadow's (2004) article discussed how different ADR environments, including the formality of the setting and the presence of legal professionals, could affect the perceived fairness and satisfaction of the parties involved.

7.5.3 The Complexity of Compensation and Alimony Disputes

The complexity of compensation and alimony disputes lies at the heart of family law, as these cases often involve deeply personal, emotional, and financial considerations. Such disputes are particularly challenging because they require a delicate balance between ensuring the financial stability of both parties and delivering equitable outcomes, all while navigating the intricate emotional and relational dynamics that frequently accompany these situations. Whether resolved through litigation or (ADR), achieving a fair and satisfactory resolution demands a nuanced understanding of both legal principles and the unique circumstances of each case.

Compensation and alimony disputes are often contentious in ADR processes, as evidenced by the narratives of Mr. and Mrs. Malcom from fieldwork. Both parties expressed deep dissatisfaction with the financial aspects of their ADR outcomes, feeling that their respective sacrifices and emotional sufferings were not adequately recognized or compensated. Mrs. Malcom, in particular, felt aggrieved by the compensation offered, as it failed to account for the non-monetary contributions she made during the marriage. This dissatisfaction reflects a broader issue in ADR: the challenge of assessing and quantifying non-economic contributions such as domestic labor, caregiving, and the emotional toll of marriage.

The emotional strain and permanent physical harm Mrs. Malcom experienced from childbirth further complicate the issue, highlighting the difficulty of achieving justice for harms that are not

easily quantified. Studies such as Weitzman (1985) and Maclean (2021) have illustrated that compensation and alimony often overlook the non-financial contributions that one party makes to the relationship, which can result in feelings of injustice and dissatisfaction with the ADR process.

In examining these disputes through the lens of legal consciousness theory, as outlined by Ewick and Silbey (1998), we see that when the outcome of an ADR process fails to meet an individual's expectations, participants are likely to feel that justice has not been adequately served. This is particularly true in cases like the Malcom's, where Mrs. Malcom perceived the compensation to be insufficient, given the physical and emotional harm she endured. Legal consciousness shapes how individuals perceive justice, and when there is a gap between the outcome and their expectations especially when these expectations are informed by broader legal frameworks like constitutional rights, feelings of dissatisfaction are likely to arise.

This gap becomes especially evident when considering Article 22 of the 1992 Constitution of Ghana, which addresses the property rights of spouses' post-separation. The article advocates for the equitable division of property acquired during marriage, as mandated by the constitutional provisions. However, in cases like the Malcoms', outcomes achieved through ADR often fail to meet these standards. A key challenge arises when the couple lacks clearly defined assets for division, requiring compensation to be considered instead. This disconnect reveals a broader issue: while ADR provides a more informal and flexible resolution process, it can struggle to deliver fair outcomes in complex financial disputes, particularly when non-monetary contributions, such as caregiving or homemaking, are undervalued. This highlights a potential shortcoming in ensuring justice in ADR settlements.

As scholars such as Basu (2012) and Davidheiser (2005) have argued, ADR processes must evolve to better address these complexities, particularly in the context of gendered financial and emotional

contributions to relationships. Bradford et al., (2023) similarly emphasize the need for family law systems, including ADR, to more effectively account for the broader socio-economic realities that shape compensation and alimony disputes. Without addressing these issues, ADR may risk reinforcing existing power imbalances and failing to deliver the equitable resolutions it seeks to achieve.

In conclusion, while ADR offers a valuable alternative to litigation in resolving family disputes, it must be equipped to handle the complexities inherent in compensation and alimony cases. Ensuring that non-monetary contributions are adequately recognized and bridging the gap between constitutional provisions and ADR outcomes is essential to delivering justice in these cases. Through a more comprehensive and equitable approach, ADR can better serve individuals like Mrs. Malcom, who seek both financial stability and recognition for their sacrifices within the marital relationship.

7.5.4 Emotional and Psychological Dimensions of ADR Satisfaction

The emotional undertones in the narratives of dissatisfied participants, particularly Mr. Malcom, highlight the importance of addressing the emotional and psychological needs of parties in ADR processes. His dissatisfaction with the financial outcome, coupled with feelings of emotional betrayal and physical harm, reflects the complex interplay between emotional satisfaction and perceived justice. The narrative suggests that even when ADR provides a resolution, it may fall short if it does not address the deeper emotional wounds that often accompany intimate disputes (Rosenberg, 1994; Sulmeyer et al., 2015).

Research by Balzer & Schneider (2021) supports this view, arguing that for ADR to be truly effective, it must take into account the emotional and psychological dimensions of conflict to improve participants' satisfaction and achieve more successful outcomes. Mediators should be

trained not only in legal principles but also in conflict resolution techniques that address these deeper issues. Ensuring that both parties feel emotionally validated and that their grievances are genuinely acknowledged to enhance satisfaction, even in cases where the material outcomes may not fully align with their desires.

7.5.5 Legal Consciousness and User Satisfaction

Satisfaction with ADR outcomes is deeply intertwined with participants' legal consciousness, their understanding of justice, fairness, and the role of the law in resolving their disputes. Participants' narratives reveal that their satisfaction is often shaped by their expectations of the legal process, the behavior of mediators, and the perceived fairness of the outcomes. When these elements align with participants' legal consciousness, satisfaction tends to be high. Conversely, when there is a perceived disconnect between the process and their sense of justice, dissatisfaction arises.

User satisfaction with ADR outcomes in intimate disputes is a complex and multifaceted issue, influenced by a range of factors including mediator competence, perceived fairness, financial considerations, and the emotional and psychological needs of the participants. Through the lens of legal consciousness theory, it becomes clear that satisfaction is not merely about the outcomes themselves but about the entire process and how it aligns with participants' expectations and understanding of justice.

7.6 Challenges in the Enforcement of CCADR Outcomes: A Critical Examination

The enforcement of Court-Connected Alternative Dispute Resolution (CCADR) outcomes presents a critical intersection between justice and practical implementation. While ADR processes offer a more accessible and less adversarial avenue for conflict resolution, the effectiveness of these processes hinges on the ability to enforce outcomes. This discussion explores the

complexities of enforcing CCADR outcomes, drawing from participant narratives and analyzing the broader implications through the lens of legal consciousness theory. The narratives of Madam Asantewaa and Mr. Ransford serve as focal points for understanding the challenges and frustrations inherent in the enforcement process. These stories underscore the emotional, financial, and psychological tolls associated with non-compliance and the limitations of current enforcement mechanisms.

7.6.1 Enforcement Challenges in ADR Outcomes

Enforcing court judgments in Ghana, including those from Court-Connected ADR (CCADR), follows the same legal process as any court judgment, involving steps like obtaining a writ of execution and potentially seizing assets or garnishing wages. While the legal framework allows for enforcement, challenges persist, particularly in resource availability and judicial efficiency. Alternative dispute resolution mechanisms like mediation may encourage voluntary compliance, but practical difficulties often require persistence and innovative strategies.

Madam Asantewaa's case exemplifies the struggle many face in enforcing CCADR outcomes, particularly in child maintenance. Despite a judgment in her favor in 2018, her ex-partner's non-compliance has forced her to pursue further legal actions, including criminal charges. This situation highlights the inadequacy of current CCADR enforcement mechanisms, placing a disproportionate emotional and financial burden on compliant parties. Taylor, (2019) emphasize that while ADR offers efficient resolution, the lack of robust enforcement tools can undermine its effectiveness, as seen in Madam Asantewaa's reliance on traditional legal measures like arrest and imprisonment. This challenge is not unique to ADR but extends to the broader legal system, as Court-Connected Alternative Dispute Resolution (CCADR) operates within the framework or

"shadow" of the law (Mnookin, 1984). When participants experience these difficulties, it undermines the core purpose of ADR.

In contrast, Mr. Ransford's narrative introduces the perspective of the non-compliant party, reflecting economic hardship and a sense of defiance against the enforcement process. His case underscores the need to account for the socio-economic realities of non-compliant parties, a point supported by research from Merry (1990) and Sutinen & Kuperan (1999), who argue that ignoring these factors can perpetuate cycles of non-compliance and legal complications, ultimately undermining ADR's objectives.

7.6.2 Legal Consciousness Theory and ADR Enforcement

In the context of CCADR, the repeated enforcement actions taken by individuals like Madam Asantewaa reflect a form of "before the law" consciousness, where the law is seen as a necessary but burdensome authority that must be continually invoked to secure compliance. Her persistent pursuit of justice, despite the obstacles, underscores a belief in the law's ultimate authority but also reveals the emotional toll that such relentless engagement with the legal system can take.

On the other hand, Mr. Ransford's narrative reflects a "with the law" consciousness, where the law is perceived as a tool that can be manipulated or resisted based on one's circumstances. His defiance and resignation suggest a belief that the enforcement process is skewed or ineffective, leading to a sense of disillusionment with the legal system. This perspective aligns with findings by Silbey (2005), who argues that individuals who perceive the law as unjust or inaccessible are more likely to disengage or resist compliance. This disengagement can be particularly problematic in CCADR processes, where the success of the resolution often depends on the willingness of both parties to adhere to the agreement.

7.6.3 Broader Implications and Recommendations

The narratives of Madam Asantewaa and Mr. Ransford, when viewed through legal consciousness theory, reveal significant gaps in the current CCADR enforcement framework. These gaps not only affect the immediate parties involved but also have broader implications for public confidence in the justice system. If CCADR outcomes are perceived as difficult to enforce or biased, the legitimacy of the entire CCADR process is called into question.

To address these challenges, it is crucial to strengthen the enforcement mechanisms within the CCADR framework. This could include developing more supportive enforcement strategies that take into account the socio-economic realities of the parties involved, such as alternative payment plans or mediation follow-ups to ensure compliance. Additionally, increasing transparency and communication during the ADR process can help manage expectations and reduce perceptions of bias or injustice. Finally, integrating psychological support services within the ADR process could help address the emotional toll of enforcement, ensuring that both parties feel heard and supported throughout the process.

In conclusion, the enforcement of CCADR outcomes remains a critical challenge that requires careful consideration and reform. The experiences of individuals like Madam Asantewaa and Mr. Ransford highlight the emotional, financial, and psychological complexities involved in ensuring compliance with ADR settlements. Through the lens of legal consciousness theory, these narratives reveal the deeper implications of current enforcement practices, suggesting that a more holistic and supportive approach is needed to uphold the integrity of the ADR process. By addressing these challenges, the justice system can better serve the needs of all parties involved, reinforcing public confidence in ADR as a fair and effective tool for conflict resolution.

7.7 Voices of CCADR Users: Real-World Experiences in Intimate Partner Disputes

The lived experiences of individuals using Court-Connected Alternative Dispute Resolution (CCADR) to resolve intimate disputes are multifaceted and deeply personal, encompassing a wide range of emotions, procedural challenges, and perceptions of justice. This section explores the complex tapestry of these experiences, focusing on themes such as emotional and psychological struggles, perceived injustices, and procedural difficulties. The discussion interconnects these findings with existing literature, framed through the lens of legal consciousness theory, to provide an understanding of the human side of ADR processes.

7.7.1 When Love Fades: Unpacking the Emotional Residue of Failed Relationships

The theme above encapsulates the lingering emotional toll of unfulfilled commitments and the profound psychological impact when relationships reach their breaking point. It captures the essence of disillusionment and the emotional aftermath that arises when love and trust are eroded. The narratives of participants like Mr. Crab, who felt humiliated during mediation when his sexual performance was publicly discussed, highlight the vulnerability and emotional pain that can arise during ADR processes.

This finding resonates with Carrie Menkel-Meadow's (2007) analysis of restorative justice, which acknowledges the potential for ADR to evoke deep emotional responses, especially when sensitive personal issues are involved. Menkel-Meadow argues that while ADR can be therapeutic and restorative, it may also reopen emotional wounds, complicating the resolution process. Similarly, Murphy and Singer (2016) note that intimate disputes, when brought into the legal arena, often exacerbate feelings of betrayal and emotional distress, further complicating conflict resolution.

In the context of ADR, participants' emotional responses can be seen as a reflection of their legal consciousness, how they interpret the law's role in their lives. When ADR processes fail to address

or mitigate these emotions, participants may view the legal system as alienating or unjust, reinforcing negative perceptions of legal institutions.

7.7.2 Betrayal, Resentment, and Perceived Injustice

Feelings of betrayal, resentment, and perceived injustice were recurrent experiences among participants, particularly in cases involving issues like child maintenance and compensation. Mr. Alex, who was imprisoned for failing to pay child maintenance, expressed a deep sense of injustice, comparing his situation to other men who neglected their parental responsibilities without facing similar consequences. This narrative underscores the complex interplay between personal responsibility, legal obligations, and perceived fairness. According to Brinig & Allen (2000), post-separation challenges are multifaceted, affecting individuals emotionally, financially, and socially. These challenges often persist long after the legal dissolution of a relationship, influencing various aspects of life and well-being.

Research by Burke (2017) on the emotional dimensions of legal proceedings highlights that individuals involved in intimate disputes often perceive the legal system as either punitive or insufficiently responsive to their personal circumstances. Burke argues that such perceptions can lead to feelings of resentment and disillusionment with legal processes, particularly when outcomes are seen as disproportionate or unjust.

Through the lens of legal consciousness, Mr. Alex's experience illustrates how individuals interpret and respond to legal outcomes based on their sense of justice. Ewick and Silbey (1998) suggest that when individuals perceive legal processes as unfair or biased, they may disengage from the legal system or harbor negative attitudes toward it. This disengagement can undermine the effectiveness of ADR, as participants may resist or reject outcomes that they view as unjust.

7.7.3 Fear and Uncertainty about the Future

Participants like Madam Adwoa, who expressed fear and uncertainty about her future after initiating court action against her ex-husband, exemplify the emotional toll that legal proceedings can take on individuals. The fear of post-divorce retaliation and the expiration of financial support highlight the vulnerability and anxiety that can accompany legal (ADR) processes, particularly in cases where long-term security is at stake (Scanlon et al, 2018). Also, the societal stigma associated with legal disputes in intimate relationships, especially in certain cultural contexts, can also contribute to threats. Some individuals may view the involvement of the legal system as a public airing of private matters, which can bring shame and social ostracism.

Murphy and Singer (2017) emphasize that legal actions, particularly in intimate disputes, often heighten conflict and create stress, disrupting the fundamental trust and security in relationships. This disruption can lead to long-term emotional and psychological consequences, as participants navigate the uncertainty of their post-dispute lives. According to Bring & Allen (2000), other reasons for such feeling is the fear of legal and financial repercussions. Studies on divorce proceedings indicate that financial concerns are a major factor in the escalation of conflicts during separation (Wissler, 2004). Legal action, such as divorce, custody battles, or the filing of restraining orders, can lead to significant financial losses, legal penalties, or damage to one's reputation. Research by Flynn (2013) indicates that cultural perceptions of legal action in intimate relationships can lead to retaliatory behavior, including threats, to discourage legal proceedings. In some instances, the partner facing legal action may resort to threats in an attempt to avoid these consequences. Johnson's (2008) typology of intimate partner violence highlights how coercive controlling behaviors are often used to dissuade partners from taking any legal steps that could disrupt the power dynamics in the relationship.

Legal consciousness theory provides insight into how individuals' fears and uncertainties shape their engagement with the legal system. According to Ewick and Silbey (1998), individuals' perceptions of legal institutions are influenced by their experiences of powerlessness and insecurity. When ADR processes fail to address these concerns, participants may develop a sense of alienation from the legal system, viewing it as incapable of providing the protection and support they need.

7.7.4 Procedural Challenges: Perceived Lack of Fair Hearing and Child Custody Concerns

Procedural challenges, particularly related to perceived lack of fair hearing and dissatisfaction with child custody decisions, were significant concerns for participants. Mr. Asamoah and Mr. Razack both expressed frustration with the ADR process, feeling that their perspectives were not adequately heard or considered, especially concerning custody of their children. This finding is consistent with research by McEwen and Maiman (2004), who found that perceived fairness and procedural justice are critical to participants' satisfaction with ADR processes. When individuals believe that their voices are not heard or that decisions are made without considering their input, they are more likely to view the process as unjust and dissatisfying.

Legal consciousness theory helps explain the impact of these procedural challenges on participants' perceptions of ADR. Ewick and Silbey (1998) argue that individuals' experiences with legal processes shape their understanding of the law's role in their lives. When ADR processes fail to provide a fair hearing or address participants' concerns, it can reinforce a sense of powerlessness and alienation, leading to disengagement from the legal system.

7.7.5 Judicial System Critique: Frequent Adjournments and Delays

The critique of the judicial system, particularly the issue of frequent adjournments, emerged as a significant theme in participants' narratives. Mr. Worname and Mr. Mills shared their frustrations with the frequent delays in their cases, which exacerbated their emotional and financial strain.

This finding aligns with studies on judicial efficiency, such as that by Lewin, Morey and Cook, (1982) which highlighted the detrimental impact of delays on litigants' experiences and perceptions of the legal system. Frequent adjournments can erode public trust in the judiciary, leading to a perception of the legal system as inefficient and inaccessible (Marciano & Khalil, 2012). Through the lens of legal consciousness theory, the frustration with judicial delays can be seen as a reflection of participants' broader disillusionment with the legal system. Ewick and Silbey (1998) suggest that when individuals encounter procedural inefficiencies, it can undermine their belief in the law as a means of achieving justice, leading to negative perceptions of legal institutions

In conclusion, the lived experiences of ADR users in intimate disputes reveal a complex interplay of emotions, procedural challenges, and perceptions of justice. While ADR offers a flexible and informal approach to conflict resolution, the findings of this study highlight significant limitations, particularly in addressing the emotional and psychological dimensions of disputes and ensuring procedural fairness. Interconnected with existing literature and viewed through the lens of legal consciousness theory, these findings underscore the need for reforms within ADR frameworks to better meet the needs of participants. Strengthening enforcement mechanisms, ensuring fair hearing, and addressing procedural inefficiencies are essential steps toward enhancing the effectiveness and accessibility of ADR processes. By incorporating these reforms, ADR can better

serve its purpose as a tool for achieving both justice and emotional healing, fostering a more positive legal consciousness among those it aims to help.

7.8 Exploring Limited Legal Agency: Insight from the Afezdie Divorce Case

The Afezdie divorce case highlights the complexities of legal agency, power dynamics, and the pursuit of justice in intimate disputes, focusing on the interplay between Alternative Dispute Resolution (ADR) and litigation. The discussion examines the experiences of Mr. and Mrs. Afezdie through the lens of legal consciousness and agency, underscoring the challenges faced by marginalized individuals navigating legal processes.

The case illustrates how legal agency, defined as the capacity to act independently within the legal system (Holtzworth-Munroe et al., 2021), is critical in achieving just outcomes. Initially, ADR provided a resolution tailored to Mrs. Afezdie's needs. However, due to her limited literacy and lack of legal representation, she perceived the outcome as unfair, reflecting concerns about power imbalances in ADR, particularly when one party has more resources or knowledge (Basu, 2012; Hunter, 2003).

The shift in Mrs. Afezdie's experience after engaging a private lawyer post-ADR demonstrates the importance of legal representation in enhancing legal agency and mitigating power imbalances (Vu, 2009; Zamir, 2011). Her move to litigation highlights the limitations of ADR in contexts where legal agency is constrained. The transition to litigation, though financially more rewarding, introduced significant economic pressures and extended the resolution process. This scenario emphasizes the relationship between legal agency and financial resources, revealing how economic burdens can limit an individual's ability to pursue legal remedies (Currie, 2009).

The gendered power dynamics in the Afezdie case reflect traditional roles that may influence ADR outcomes. Mrs. Afezdie's pursuit of litigation, challenging gendered expectations, aligns with critiques of the gendered assumptions underlying legal processes (Smart, 2017).

Mrs. Afezdie's shift from ADR to litigation demonstrates a transformation in her legal consciousness, moving from passive acceptance to assertive engagement with the legal system. This change reflects how marginalized individuals, when empowered through legal representation, can challenge the limitations of ADR and seek justice through formal channels (Ewick & Silbey, 1998). The differing perceptions of justice between ADR and litigation in the case highlight the complexities of legal consciousness and its broader implications (Merry, 1990; Seron et al., 2001).

Limited Legal Agency: Economic and Gendered Implications

The concept of limited legal agency is pivotal in understanding how individuals navigate the legal landscape, particularly in contexts where economic constraints, social pressures, and gender dynamics intersect. The case of Mr. and Mrs. Afezdie exemplifies these challenges, offering insights into how these factors shape the decisions and outcomes of those involved in Alternative Dispute Resolution (ADR) and litigation.

7.8.1 Economic Constraints and Legal Agency

Economic constraints are a significant barrier to effective legal agency, particularly for individuals from lower socio-economic backgrounds. In the case of Mrs. Afezdie, the decision to reject the ADR outcome and pursue litigation reflects not only a strategic choice but also a recognition of the limitations imposed by her economic situation. The cost of legal representation, GHC 10,000 for a lawyer, and the additional GHC 300 for transportation to each court hearing represent substantial financial burdens. For many, these costs are prohibitive, effectively limiting their

ability to engage in legal processes. This economic pressure often forces individuals to accept less favorable outcomes, as the financial strain of pursuing their legal rights becomes too great.

The literature supports the idea that economic constraints limit legal agency. According to Sarat and Sarat & Kearns (2009), individuals with limited financial resources often face significant disadvantages in legal disputes, as they are less able to afford quality legal representation and may struggle to cover the costs of prolonged litigation. This economic disparity can lead to unequal access to justice, where the outcome of legal disputes is heavily influenced by the financial resources available to the parties involved.

7.8.2 Gender Dynamics and Legal Agency

Gender dynamics further complicate the exercise of legal agency, particularly in contexts where societal norms and expectations place women at a disadvantage. Mrs. Afezdie's experience illustrates how gendered expectations can shape the outcomes of ADR processes. In many cultures, women are expected to prioritize security and stability, particularly in a post-divorce context. This expectation may have influenced the focus of the ADR outcome on housing and rent, which, while important, may not fully address Mrs. Afezdie's broader legal rights, particularly concerning matrimonial property.

The shift from ADR to litigation in Mrs. Afezdie's case suggests a rejection of traditional gender roles and an assertion of her right to a fair share of the matrimonial property. This decision reflects a broader trend identified in the literature, where women increasingly seek to challenge gendered norms through legal avenues. As noted by Merry (1990), legal consciousness and the pursuit of rights are deeply gendered processes, where women must navigate a complex web of societal expectations and legal norms to assert their agency.

Research by Choudhury (2017) highlights how social pressures can undermine the effectiveness of ADR for marginalized individuals, particularly women. In many cases, ADR processes are influenced by power dynamics that reflect broader social inequalities, leading to outcomes that disadvantage those with less social power. This dynamic underscores the importance of considering social context when evaluating the effectiveness of ADR and other legal processes.

7.8.3 Intersecting Challenges and the Pursuit of Justice

The case of Mr. and Mrs. Afezdie illustrates how economic constraints, gender dynamics, and social pressures intersect to limit legal agency. For Mrs. Afezdie, these challenges culminated in the decision to pursue litigation, despite the significant financial and emotional costs involved. This decision reflects a broader struggle for justice, where marginalized individuals must navigate a complex and often hostile legal landscape to assert their rights.

The literature on legal agency and ADR supports this view, emphasizing the need for legal processes that are sensitive to the economic, gendered, and social realities of those involved. As noted by Delgado (2017), access to justice requires more than just legal representation; it requires a legal system that recognizes and addresses the barriers faced by marginalized individuals.

In conclusion, the concept of limited legal agency provides a valuable framework for understanding the experiences of individuals like Mr. and Mrs. Afezdie, who must navigate a legal system shaped by economic, gendered, and social factors. Their case highlights the need for legal processes that are accessible, equitable, and responsive to the diverse needs of those involved. By recognizing and addressing the limitations of legal agency, particularly in contexts of economic and gender inequality, the legal system can better serve the interests of justice.

7.9 Conclusion

In summary, this chapter has meticulously examined the multifaceted role of Alternative Dispute Resolution (ADR) in intimate partner disputes, offering a nuanced understanding of its impact and effectiveness. Through a comprehensive analysis of various themes ranging from user satisfaction and enforcement challenges to the empowerment of marginalized groups and the lived experiences of ADR users, this chapter underscores the significant ways in which ADR functions as both a tool for resolving conflicts and a mechanism for navigating cultural and social complexities.

The exploration of user satisfaction reveals that while ADR offers a more amicable and flexible approach compared to traditional litigation, its effectiveness is often contingent upon the parties' willingness and the process's ability to address underlying power imbalances. The enforcement of ADR outcomes remains a critical issue, highlighting the need for robust mechanisms to ensure compliance and resolve disputes arising from non-fulfillment of agreements.

The chapter also highlights the empowering role of ADR for marginalized individuals, providing them with a platform to voice their concerns and participate more actively in the resolution process. This empowerment is particularly evident in contexts where traditional legal frameworks may fall short, offering a more inclusive and culturally sensitive approach to dispute resolution.

Furthermore, the analysis of lived experiences provides valuable insights into how ADR is perceived and experienced by users in intimate disputes. These personal narratives reveal both the strengths and limitations of ADR, emphasizing the importance of context and individual circumstances in shaping the effectiveness of the process.

Overall, this chapter underscores the transformative potential of ADR in intimate disputes while also acknowledging the areas where improvements are needed. The insights gained from this

discussion contribute to a deeper understanding of ADR's role in contemporary legal and social contexts, offering a foundation for further research and practical enhancements in dispute resolution practices.



CHAPTER EIGHT

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

8.1 Introduction

Resolving intimate partner disputes has long been a challenge, particularly when navigating the limitations of traditional litigation and the complexities of informal dispute resolution mechanisms. Litigation, though structured and authoritative, often proves too rigid, adversarial, and costly for delicate intimate matters, exacerbating conflicts rather than resolving them. On the other hand, informal mechanisms, such as mediation by elders or family heads, while culturally aligned and flexible, can fall short in protecting individual rights and addressing power imbalances, particularly in gendered relationships. Caught between these two extremes, Court -Connected Alternative Dispute Resolution (ADR) emerges as a promising middle ground, offering a more accessible, less confrontational, and culturally sensitive pathway to justice.

The main objective of this study was to explore the use of CCADR mechanisms in resolving intimate partner disputes in Ghana, specifically within the Greater Accra region. Using a combination of qualitative methodologies, including observation of 14 couple mediation sessions and 28 semi-structured interviews, the study examined the phenomenon through the lens of legal consciousness, a theoretical framework that explains the relationship between ordinary people and the law, how they interpret their rights, and how these interpretations shape their behavior and actions in various contexts on daily basis regarding their decision to engage or avoid the law in the face of a dispute.

This concluding chapter is organized into three distinct sections. The first section provides a comprehensive summary of the study's key findings. The second section delves into the conclusions drawn from these findings, offering a synthesis of the research outcomes. The third section presents recommendations derived from the conclusions, aimed at addressing the issues identified in the study.

8.2 Summary of Findings

This study set out to explore the use of CCADR to resolve intimate partner dispute in Greater Accra. The study uncovered a comprehensive range of participants' experiences and perceptions. Legal consciousness played a significant role in the research as a framework for understanding how participants perceived and interacted with the Court-Connected Alternative Dispute Resolution (CCADR) process. It provided insights into the ways individuals interpret, navigate, and respond to legal structures and processes based on their lived experiences, social positions, and personal beliefs.

Seven overarching themes with corresponding subthemes emerged from the data, offering profound insights into how CCADR functions in Ghana's context, particularly for resolving family and intimate partner disputes. The themes were analyzed to align with the study's objectives, revealing both the strengths and limitations of ADR in this particular setting. Below are the various themes from the data:

8.2.1 Background of Respondents

The study involved 28 participants, consisting of 14 couples with an equal number of males and females. Their ages ranged from 30 to 63 years, with the average age being 48 for males and 44 for females. Their educational backgrounds varied from primary to tertiary levels, and all but one

couple identified as Christian. The number of children per couple ranged from none to five, and the duration of relationships spanned between 8 and 35 years.

This diverse demographic profile reflects a broad spectrum of life experiences and relationship stages. Research shows that middle-aged individuals often face complex life challenges, such as career transitions and family responsibilities, which likely contributed to their need for Court-Connected Alternative Dispute Resolution (CCADR).

More importantly, the data reveals a significant insight, CCADR is utilized across all social strata. The wide range of socio-demographic factors such as age, education levels, religious affiliations, family sizes, and relationship durations underscores the importance of tailoring ADR mechanisms to accommodate diverse populations. By considering these varied backgrounds, ADR processes can be effectively adapted to address the unique needs and challenges faced by individuals involved in intimate partner disputes in Ghana.

8.2.2 Leveraging Tool between Rigid Laws and Flexible Informal Mechanisms

One of the most significant findings was how ADR served as a bridge between formal legal structures and informal conflict resolution mechanisms. This theme highlighted the flexibility of ADR, which allowed it to adapt to the cultural and social context of the disputants while providing a structured, legally backed framework. Participants who felt constrained by the formal legal system appreciated the flexible, negotiation-driven approach.

8.2.3 Navigating Unpleasant Cultural and Social Norms

A recurring theme in participants' narratives was the challenge of navigating cultural and social norms, which often placed significant burdens on women and marginalized individuals during dispute resolution. Many women, in particular, highlighted the conflict between their personal

values and cultural expectations, such as their partners taking additional wives. In these cases, Alternative Dispute Resolution (ADR) provided a less confrontational approach for addressing sensitive issues like divorce and the division of jointly acquired property, allowing participants to resolve disputes without exacerbating tensions or compromising their dignity.

8.2.4 A Tool of Empowerment and Voice

For some participants, ADR was perceived as a tool of empowerment, particularly when formal legal processes were inaccessible or intimidating. ADR allowed individuals, especially those from marginalized groups, to have a voice in the negotiation process. It provided a space where their grievances could be heard and addressed without the legal jargon and formalities that often accompanied court cases.

8.2.5 Therapeutic Jurisprudence

The study revealed that ADR has the potential to act as a form of therapeutic jurisprudence, where the process itself fosters emotional healing for the parties involved. Many participants described mediation sessions as therapeutic, offering a safe environment to express their emotions and address underlying issues beyond the immediate dispute. This was especially important in cases involving child custody and marital breakdowns, where ongoing relationships and co-parenting were central concerns. However, some participants reported that the process heightened their distress, particularly in matters related to child maintenance and compensation, where they felt the resolution did not adequately meet their needs or expectations.

8.2.6 Satisfaction with ADR Outcome

A key theme that emerged was satisfaction with the outcomes of ADR. Most participants expressed satisfaction with the process, particularly when the resolution was seen as fair and mutually

beneficial. However, satisfaction varied based on factors such as mediator competency, the balance of power between disputants, and the degree to which each party felt heard and respected during the proceedings. Dissatisfaction was often linked to perceptions of mediator bias or situations where one party felt pressured into an agreement due to power imbalances, cultural expectations or for the sake of sacrificing for peace.

8.2.7 Lived Experiences of ADR Users

The findings revealed the emotional and procedural challenges faced by participants using Court-Connected Alternative Dispute Resolution (CCADR) in intimate partner disputes. Participants experienced anger, embarrassment, and fear, with many attributing their negative experiences to their partners' behavior rather than the ADR process itself. Themes such as betrayal, trust issues, resentment, and perceived injustice emerged, alongside dissatisfaction with child custody decisions and compensation outcomes. Procedural challenges, including frequent court adjournments and perceived lack of fair hearing, were also prominent. These challenges highlight the complexities of ADR, emphasizing the need for reforms to improve procedural fairness and efficiency.

8.2. 8 Insight on Limited Legal Agency

The research confirmed that while ADR offers a platform for dispute resolution, it sometimes reinforces limited legal agency for marginalized individuals, particularly women. The absence of legal representation and support during the ADR process often leads to power imbalances, making it difficult for vulnerable parties to negotiate fair settlements.

8.3 Conclusions

This thesis has explored the intricate dynamics of Court-Connected Alternative Dispute Resolution (CCADR) in intimate partner disputes, focusing on how this mechanism operates within the Ghanaian legal and cultural landscape. The research findings, analyzed through the lens of legal consciousness, illuminate how individuals navigate the interplay between formal legal frameworks and informal dispute resolution processes. The study's conclusions are drawn from seven major themes that reflect the experiences, perceptions, and challenges faced by ADR users.

The demographic analysis revealed that ADR is a crucial mechanism for a diverse population, addressing various age groups, educational backgrounds, and relationship complexities. The diversity of participants underscores the need for adaptive ADR frameworks that can cater to individuals with different life experiences and social positions. This adaptability ensures that the system remains inclusive and responsive to the unique needs of each disputant.

A key finding is the role of ADR as a bridge between rigid legal structures and flexible informal mechanisms, particularly within the context of intimate disputes. The flexibility of ADR allows it to adapt to cultural and social norms while maintaining a structured process backed by the courts. This bridging function makes ADR particularly suitable for resolving disputes where formal litigation may seem too rigid or confrontational.

Navigating unpleasant cultural and social norms emerged as a critical theme, especially for marginalized groups, including women. ADR offered these individuals an avenue to assert their agency in environments where formal litigation might be inaccessible or intimidating. This finding highlights the empowering potential of ADR, allowing disputants to voice their concerns and negotiate outcomes that align with their personal values and beliefs.

The theme of ADR as a tool of empowerment, particularly for marginalized groups such as women, stands out in the findings. Many participants, particularly women, expressed that ADR allowed them to voice their grievances in a setting less intimidating than the courtroom. This resonates with the theory of legal consciousness, which posits that individuals' interactions with legal institutions are shaped by their social positions and experiences (Ewick & Silbey, 1998). By providing a platform where disputants can negotiate outcomes that respect their personal beliefs and values, ADR offers a form of legal agency that might be inaccessible through traditional litigation (Bumiller, 2017). However, this empowerment is not without limitations. The findings also revealed that, in some cases, power imbalances within the ADR process whether due to gender, socioeconomic status, or cultural expectations could undermine this sense of empowerment. This highlights a key critique of ADR, while it aims to be inclusive, it may inadvertently reproduce existing social hierarchies if not carefully monitored (Abel, 2009). The absence of legal representation in some ADR processes further exacerbates this, particularly for vulnerable parties who may not have the negotiation skills or confidence to advocate for themselves fully.

While much of the critique of ADR centers on power imbalances between disputants, it is important to acknowledge that this problem is not unique to ADR. Power imbalances are pervasive in almost all forms of dispute resolution, including formal litigation. In both ADR and court proceedings, the party with more resources, better access to legal counsel, or higher social status often has an advantage (Kruger, 2023). The critical challenge is to design mechanisms within both ADR and litigation systems that mitigate these imbalances, ensuring fairness and equity in the process.

The therapeutic potential of ADR was another significant discovery. For many participants, the process itself offered emotional healing and a constructive way to manage ongoing relationships, particularly in cases involving child custody or marital breakdowns. The ability of ADR to serve not only as a legal mechanism but also as a tool for emotional resolution demonstrates its broader societal value. The challenge posed by individuals who found ADR to be anti-therapeutic, with the process burdening them with financial and psychological pain, highlights a complex issue. Traditional litigation, known for its lengthy, costly, and emotionally taxing nature, often exacerbates these stressors, leading to calls for alternative approaches. ADR emerged as a response to some of these weaknesses, offering a more flexible and less adversarial means of resolving disputes. However, in cases where ADR itself is perceived as burdensome, it becomes clear that the alternative must be further refined (Price, 2018). This underscores the need for continual adjustments to ADR processes, ensuring they provide a therapeutic and less stressful experience for all participants, while maintaining the core values of efficiency, fairness, and accessibility.

Satisfaction with ADR outcomes varied, but the majority of participants expressed contentment when they perceived the resolution as fair and balanced. However, dissatisfaction often arose in cases where power imbalances, mediator bias, or cultural pressures influenced the process. This emphasizes the importance of mediator training and the need for reforms to ensure that all parties feel equally represented and respected.

A common misconception that emerged from the findings is the belief that enforcement issues are primarily tied to CCADR outcomes. In reality, this challenge is not unique to ADR but also exists in formal litigation. However, it is crucial to emphasize that, in Ghana's Court-Connected Alternative Dispute Resolution (CCADR), once an ADR settlement is reached, it is converted into a court judgment, with the full force and enforceability of a traditional court ruling. As such,

CCADR settlements cannot be appealed, and any enforcement issues fall within the jurisdiction of the court. The CCADR process follows the same procedural standards as any court proceeding, and post-settlement enforcement operates under the same legal framework.

Therefore, the CCADR mechanism should be viewed as the medium for conflict resolution, with the court maintaining authority over enforcement. While CCADR offers significant advantages, the potential for enforcement challenges to undermine these benefits remains. To overcome this, there must be a stronger focus on ensuring robust enforcement mechanisms, such as clear terms of compliance, monitoring, and support from the judicial system. By reinforcing these aspects, a more comprehensive and effective CCADR process can be achieved, preventing enforcement difficulties from eroding the advantages associated with CCADR outcomes.

The lived experiences of ADR users further highlighted both the advantages and the limitations of the process. While some participants appreciated the non-confrontational nature of ADR, others struggled with procedural inefficiencies, such as frequent adjournments and perceived bias in decision-making. These challenges underline the need for continuous improvement in ADR practices, particularly in addressing procedural fairness and ensuring that disputants' rights are protected.

Finally, the research sheds light on the issue of limited legal agency, particularly for vulnerable individuals. The absence of legal representation during ADR proceedings often led to unequal power dynamics, where one party could dominate negotiations. This finding underscores the importance of legal support structures to ensure that ADR remains a fair and just process for all participants, especially those from marginalized backgrounds.

In conclusion, no dispute resolution method can provide a 100% satisfaction process (Sander, 1985). Ghana, like many African nations, faces the challenge of a geographically limited judicial system, which poses significant obstacles for many citizens, particularly those in rural areas, in accessing formal legal processes. This challenge creates a justice gap, particularly for low-income and marginalized populations, who may lack the financial means, time, or social networks to navigate the formal court system. Court Connected Alternative Dispute Resolution (CCADR), with its flexibility, cultural sensitivity, and accessibility, has the potential to address some of these challenges and ensure broader access to justice for people from diverse social strata. While CCADR presents a valuable alternative to litigation in intimate partner disputes, its success hinges on striking a delicate balance between efficiency and justice, the pursuit of quick settlements must not however, also come at the cost of the parties' rights and autonomy.

8.4 Contribution to Knowledge

This thesis makes significant contributions to the understanding and application of Court Connected Alternative Dispute Resolution (ADR) in the context of intimate partner disputes in Ghana. The key contributions to knowledge are as follows:

1. **Integration of Legal Consciousness Theory in ADR Studies:** The research applied the theory of legal consciousness to the study of ADR, providing a novel framework for understanding how individuals' perceptions of their legal rights influence their experiences and outcomes in dispute resolution. This adds a new dimension to ADR studies by linking legal awareness with empowerment in intimate partner disputes.
2. **Cultural and Gendered Insights into CCADR:** By focusing on the intersection of culture, gender, and ADR, this research sheds light on the ways in which socio-cultural norms shape dispute

resolution in Ghana. The findings highlight the critical need for gender-sensitive ADR mechanisms that take into account the cultural dynamics of reconciliation and family unity, while also protecting the rights of vulnerable individuals.

3. Empirical Evidence on CCADR's Role in Intimate Partner Disputes: The study provides valuable empirical data on the use of Court-Connected ADR in Ghana, specifically in the context of family and matrimonial disputes. This is an important contribution to both domestic and global scholarship, as it addresses a gap in the literature on ADR's application to intimate partner conflicts in Ghana.

4. Ghana's Unique Perspective on ADR in Family Disputes and the Global Debate on Limited Legal Agency: This research provides valuable insights into how Court-Connected Alternative Dispute Resolution (CCADR) is uniquely applied to family disputes in Ghana, contributing to the global debate on limited legal agency. In many parts of the world, ADR in family law is criticized for potentially restricting the legal agency of vulnerable individuals by promoting informal settlements that may not fully safeguard their rights (Basu, 2012). However, Ghana's application of ADR offers a more nuanced perspective. While the findings do reveal instances where legal agency is limited during the ADR process, Ghana's court-connected system ensures that settlements reached are transformed into court judgments with full legal enforceability. Importantly, the research highlights that limited legal agency is not solely a challenge of ADR but is also a significant issue in traditional litigation. Vulnerable individuals often face barriers to justice in formal court settings that can undermine their ability to advocate for their rights. In this context, CCADR serves as a more inclusive and empowering alternative. The findings reveal that CCADR processes have actually empowered vulnerable parties particularly women and economically disadvantaged individuals to achieve meaningful justice. By providing a platform

where their voices are heard, allowing for more participatory and less adversarial resolutions, CCADR has enabled these individuals to overcome some of the limitations they would otherwise encounter in traditional litigation.

In sum, this research contributes to the growing body of literature on Alternative Dispute Resolution by providing an analysis of its application in intimate partner disputes, focusing on the cultural, gender, and legal dimensions that influence outcomes. Through its findings, the study offers important insights for improving ADR mechanisms, both in Ghana and beyond, ensuring that they are accessible, equitable, and culturally sensitive.

8.5 Recommendations

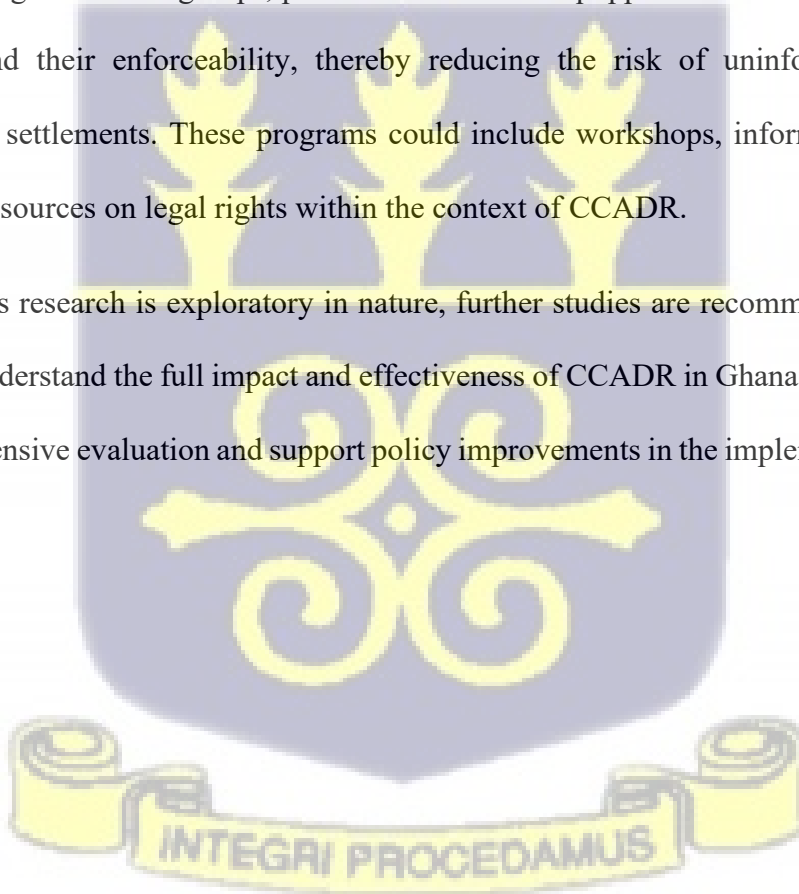
Drawing from the insights gained through this research, the study puts forward the following recommendations:

1. The Judicial Service of Ghana should consider making ADR options available at the Court Registry point for clients who may choose this service early in the litigation process. Currently, parties must go through traditional court procedures before referral to CCADR can occur. This often involve additional costs and delays in achieving justice. By introducing ADR options at the initial registry stage, clients can opt for faster, more cost-effective resolutions.
2. Moreover, the adoption of the settlement agreement should proceed immediately after the agreement is reached preferably the same day without unnecessary delays. Delaying the adoption day give parties' time to reconsider or change their minds, potentially undermining the finality of the agreement and prolonging the dispute.
3. To enhance the effectiveness of Court-Connected ADR (CCADR), the Judicial Service of Ghana should intensify public education on the availability and benefits of CCADR. Educating the public,

especially litigants, will raise awareness of ADR as a viable and efficient alternative to traditional litigation. As part of this effort, courtrooms could dedicate 5 minutes on daily basis to provide brief educational sessions on ADR options. This initiative would inform disputants early in the litigation process about the advantages of ADR, encouraging more people to consider it as a faster, cost-effective, and less adversarial means of resolving disputes.

4. Enhance Legal Literacy: Develop programs aimed at increasing participants' understanding of their legal rights and the implications of mediated agreements. This will ensure that individuals are able to make informed decisions during the ADR process. By fostering legal literacy, particularly among vulnerable groups, parties will be better equipped to understand the outcomes of mediation and their enforceability, thereby reducing the risk of uninformed consent or disadvantageous settlements. These programs could include workshops, informational sessions, and accessible resources on legal rights within the context of CCADR.

5. Given that this research is exploratory in nature, further studies are recommended on a larger scale to better understand the full impact and effectiveness of CCADR in Ghana. This will provide a more comprehensive evaluation and support policy improvements in the implementation of ADR processes.



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APPENDIXES



UNIVERSITY OF GHANA ETHICS COMMITTEE FOR THE HUMANITIES (ECH)

P. O. Box LG 74, Legon, Accra, Ghana

My Ref. No: ECH 221/ 22-23

July 31, 2023

Vida Yamoah Saa
Department of Sociology
University of Ghana
Legon

ETHICAL CLEARANCE (ECH 221/ 22-23)

The Ethics Committee for the Humanities (ECH) conducted a full board review and approved your protocol titled:

EXPLORING ALTERNATIVE DISPUTE RESOLUTION MECHANISM IN INTIMATE PARTNER DISPUTES IN URBAN GHANA: A STUDY OF LA NKWANTANANG- MADINA MUNICIPALITY

PRINCIPAL INVESTIGATOR: VIDA YAMOAH SAA

Please note that the final review report must be submitted to the Committee at the completion of the study. Your research records may be audited at any time during or after the implementation. Any modification of this research project must be submitted to ECH for review and approval prior to implementation.

Please report all serious adverse events related to this study to ECH within seven (7) days verbally and in writing within fourteen (14) days.

This certificate is valid until July 30, 2024. You are required to submit annual reports for continuing review.

Please accept my congratulations.

Yours Sincerely,

Professor C. Charles Mate-Kole
ECH Chair

Cc: Prof. Dan-Bright Dzorgbo, Department of Sociology, UG
Prof. Steve Tonah, Department of Sociology, UG

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*In case of reply the
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31st May, 2023

28

A/66 Vol.1675/2023

My Ref. No. _____

Your Ref. No. _____

MISS VIDA YAMOAH
UNIVERSITY OF GHANA
LEGON

RE: LETTER OF INTRODUCTION

I refer to your letter dated 30th May, 2023 in respect of the above subject matter.

I write to inform you that, you have been granted approval to undertake your three (3) months internship at the ADR Department, Judicial Service, Accra from 5th June, 2023 to 5th September, 2023.

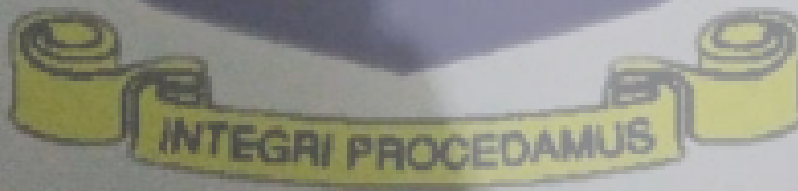
By a copy of this letter the Director of ADR, is accordingly notified of your posting to the Department.

Thank you.

(SHEILA AHENE)

DEPUTY DIRECTOR, HUMAN RESOURCE

cc: Director, ADR Department, J/S, Accra



*In case of reply the
number and date of this
letter should be quoted*

My Ref. No. **SCR 176**

Your Ref. No.

Tel. No. 0302-663952 - Ext. 2017(Office)
0302-661810 (Direct)



OFFICE OF THE JUDICIAL SECRETARY
P. O. Box 119
Accra, Ghana

JUNE 13, 2019

PRESS RELEASE

CLOSURE OF DISTRICT COURT '2', ADJABENG

The general public is hereby informed that the District Court '2' Adjabeng, has been closed down, effective **June 7, 2019**, upon the directives of Her Ladyship the Chief Justice, Justice Sophia A.B. Akuffo.

The decision to close down the court was taken following the visit of the Chief Justice to the District Court, Adjabeng, on Thursday, May 30, 2019, as part of her tour of courts in the Greater Accra Region. At the District Court, Adjabeng, it was noted that the District Court '2' was in a deplorable state and was totally unfit for purpose.

All cases at the District Court '2' have thus been transferred to the District Court '1', Adjabeng.

We regret any inconvenience this decision may cause to Lawyers, Court Users and the general public. We wish to assure our stakeholders and the general public that this decision is in the best interest of all parties and count on their cooperation in this matter.

CYNTHIA PAMELA A. ADDO
JUDICIAL SECRETARY

Cc: Her Ladyship the Chief Justice

INTEGRI PROCEDAMUS



INTERVIEW GUIDE FOR PARTICIPANTS OF COURT-CONNECTED ADR IN GHANA.

UNIVERSITY OF GHANA DEPARTMENT OF SOCIOLOGY

Greeting the Participant

My name is Vida Yamoah . I am a third-year doctoral student at University of Ghana, Department of Sociology. I am conducting research on the topic ‘Exploring the use of Court-Connected Alternative Dispute Resolution Mechanisms in Intimate Partner Dispute in urban Ghana. I invite you to participate in this research study as part of my doctoral program. You have been selected as a possible participant because of your use of Court -Connected Alternative Dispute Resolution (CCADR) in the resolution of your dispute.

The purpose of this study is to explore the use of CCADR among intimate disputants in the resolution of their disputes. With your permission, the interview will be audio taped so that I will be able to accurately capture your views, experiences, and comments. You will have access to the audiotape if you wish to hear it, and I will not share these tapes with anyone without your consent.

The records of this study will be kept private. In any report of this study that might be published, I will not include any information that will make it possible to identify you or any other participants. Research records will be kept in a safe box file, and I will be the only one that will have access to them. The tapes will be erased after I have completed my PhD program.

Your participation in this study will enable me to complete my PhD program successfully. In addition, the data that I will collect may enable me to recommend ideas on how the understanding of CCADR may improve efficient resolution of domestic disputes.

I would appreciate if you would advise me of whether or not you agree to participate by indicating consent. If you have any questions, please feel free to ask me. Thank you.

Do you have any questions before we begin?

Section A: Socio-Demographical Data

1. Interviewee Unique ID

2. Age..... 15-20 [] ; 21-30 [] ; 31-40 [] ; 41-50 [] ; above 50 []

3. Sex Male []; Female []
4. Marital Status..... Married []; Cohabiting []; Separated []; Divorced []
8. Are there children involved in the relationship? Yes [] No []
9. If yes, how many children are involved?
.....
10. What are the ages of child/children in the relationship?
.....
.....
11. What is your Religion..... Christianity []; Islam []; Traditionalism []; No Religion []
12. What is your highest Level of education? No formal education []; Primary []; Junior Secondary []; Vocational School []; Senior Secondary []; Tertiary []
13. Current Occupation..... Formal []; Informal []

Probe to find out the specific formal or informal work
.....

Section B: Synopsis of the contending case

1. What relationship do you have with the other party?
.....
.....
2. What is the length of the relationship with the other party?
.....
.....
3. Can you briefly explain the problem that brought you to court/ CCADR?
.....
.....
.....
.....
.....
.....
.....
4. What is the length of the conflict with other party?
.....
.....
5. Have you tried other alternatives of resolution before coming to court/ CCADR? Yes []; No []
If yes, what type? Family []; Church []; Friends []; Any other

6. Can you let me know about the outcome of those alternatives?

.....
.....

Section C: Process involved in the use of CCADR in Ghana

1. Have you ever engaged CCADR in resolving your dispute before? Yes [] No []
2. Can you please tell me how you became involved with CCADR?

.....
.....
.....

3. Can you explain the procedure for bringing your case to CCADR?

.....
.....
.....

4. Can you throw light on the length of time between the registration of a case and the calling of the case?

.....
.....
.....

5. Can you tell me about the cost of filling a case at the CCADR?

.....
.....
.....

6. Who bears the cost of the use of the CCADR?

.....
.....
.....

7. How does the mediation session proceed?

.....
.....
.....

8. If your case did not settle at the mediation session, what did you do?

.....
.....
.....



Section D: Reasons behind the use of CCADR in Ghana

1. Can you please explain why you chose CCADR to settle your intimate dispute?

Probe in terms of the following areas:

- Cost involved in seeking resolution
.....
- Language used in presenting the case
.....
- Understanding of the procedures
.....
- Litigants sense of ownership of the process
.....
- Efficiency of procedure
.....
- Time involved in resolving the dispute
.....
- Any other reasons
.....

Section E: Outcome with CCADR usage

1) Can you please tell me about your experience with CCADR. Probe in the following areas:

- Satisfaction with the outcome
.....
- Allowed uninterrupted narration
.....
- In terms of cost involved
.....
- In terms of time spent on the case
.....
- In terms of verdict passed
.....
- Any other outcomes
.....

2) In your view, have you achieved justice for your case? Probe in the following areas:

- In terms of compensation
.....
- In terms of re-establishing relationship with the other party
.....
- In terms of healing emotionally or the hurt/pain being reduced
.....
- Any other
.....

-
- 3) Are you satisfied with the outcome of your case in general? Yes [☐]; No [☐]

Explain your answer

-
- 4) If you have had experience with the procedures of the formal court before, how does CCADR compare with it?

.....

.....

Section F: Lived Experiences of clients of CCADR

1. Having gone through this journey with the ADR, would you say the experience has been worth it? Yes [☐]; No [☐]

2. If yes, explain yourself

-
3. If no, explain yourself

-
4. Would you like to recommend it to persons with similar cases? Yes [☐]; No [☐]

5. Explain your answer

-
-
6. On the whole, are there any challenges you encountered during the process which you would like to be changed or improved upon? Yes [☐]; No [☐]

Explain your response

.....

.....

.....

...

Thank You.

