Another possible effect of mediation could be an increased willingness among parties to cooperate in future disputes.

There is no empirical evidence on the effects of mediation on the case backlog. However, there is some evidence that ADR programs have a positive impact on court effectiveness, as they can reduce backlogs and improve their efficiency. ADR programs can help to improve the mediation process and reduce the time and cost of disputes. However, there is also some evidence that ADR programs may have negative effects, such as increased conflict and reduced trust. It is important to carefully consider the potential benefits and drawbacks of ADR programs before implementing them in a specific context.

Conclusion

In conclusion, ADR programs can have a positive impact on the resolution of disputes and the efficiency of the legal system. However, it is important to carefully consider the potential benefits and drawbacks of ADR programs before implementing them. In order to ensure that ADR programs are effective, it is important to carefully select the appropriate ADR methods and to ensure that they are used in a fair and impartial manner. This can be accomplished by providing training for ADR practitioners and ensuring that they are held accountable for their actions. It is also important to carefully consider the potential effects of ADR programs on other aspects of the legal system, such as the enforcement of contracts and the resolution of disputes.

References


Jorquera, Carlos Eugenio, and Gabriel Dabdoub Alva. 2010. “Does Court Speed Shape Insolvency, and Growth.”}


The ability to enforce contracts is essential to economic development. The ease with which contracts can be enforced is an important factor in attracting foreign investment, and a key component of the legal system. The ability to enforce contracts is also important for the resolution of disputes. The World Bank has been conducting surveys of the legal systems in countries around the world for many years, and the results of these surveys have been used to evaluate the effectiveness of ADR programs. In order to ensure that ADR programs are effective, it is important to carefully consider the potential benefits and drawbacks of ADR programs before implementing them. It is also important to carefully consider the potential effects of ADR programs on other aspects of the legal system, such as the enforcement of contracts and the resolution of disputes.

What is ADR?

ADR, or alternative dispute resolution, is an alternative to traditional litigation. It is an open forum for the parties and their representatives to resolve their differences...
### Table: Cost Savings from ADR

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<tr>
<th>Country or countries</th>
<th>Study</th>
<th>Reform</th>
<th>Cost savings (US$)</th>
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<tbody>
<tr>
<td>United States</td>
<td>1992</td>
<td>Barkai and Kassebaum</td>
<td>Court-annexed arbitration program</td>
</tr>
<tr>
<td>Colombia</td>
<td>Alvarez de la Campa</td>
<td>Conciliation made mandatory (before court filings)</td>
<td>40–50</td>
</tr>
<tr>
<td>FYR Macedonia, Serbia, Bosnia and Herzegovina</td>
<td>IFC 2006</td>
<td>Introduction of ADR centers</td>
<td>50</td>
</tr>
</tbody>
</table>

### Box 2: ADR and the Business Environment

It can involve different types of disputes—such as those involving business relationships, management, businesses and creditors (receivership), restructuring, between businesses and the state (investment treaty arbitration), or between investors and the state (investment treaty arbitration), or between investors and creditors (bankruptcy, restructuring). Between businesses the costs of resolving disputes can vary from about US$2,000 to more than US$20,000. For example, in a hypothetical company in Argentina, they saved about 88 hours of staff time and about 6 months of litigation time per case—showing that mediation assignments and controlling for case characteristics can reduce the costs of dispute resolution. Chemin (2010) finds a causal relationship between ADR and interest in the United States and a few other developed countries. ADR can improve foreign investment (see, for example, Rosenberg and Folberg 1994), because ADR resolutions are faster, they may allow litigants to avoid bankruptcy thanks to receiving mediation offers. Rosenberg and Folberg (1994) use a randomised design to study early neutral evaluation (ENE) in California. They report that while about 60 percent of parties believed that they saved money with ENE, perceptions of lawyers and parties believed that ENE added about US$6,000 to the cost of litigation. Rosenberg and Folberg (1994) also find that litigants' relationships is an important factor in firms choosing ADR. The survey by Wissler (2004), however, reported the continuation of business relationships and in problem-solving skills. The IFC study (2006) notes mixed results on litigants' relationships. Some find mediation has another intangible benefit: improving the perceived quality of the legal system. Others observe that parties may prefer other forms of ADR participation even as the parties impacted benefiting even those who do not participate directly in ADR. Among the different impacts noted in the ADR literature, ADR can affect the number of court cases filed (by diverting some cases that would have ended up in court to the ADR process) and thus altering behavior of litigants and disputants. Rosenberg and Folberg (1994) report that the loosening of court congestion may be a major reason for litigants to choose ADR over court. While there are many studies of ADR effectiveness, some observers are sceptical of the usefulness of the studies. It is not clear that mediations are cost-effective in the broader sense. Rosenberg and Folberg (1994) use a randomised design to study early neutral evaluation (ENE) in California. They report that while about 60 percent of parties believed that they saved money with ENE, perceptions of lawyers and parties believed that ENE added about US$6,000 to the cost of litigation. Rosenberg and Folberg (1994) also find that litigants' relationships is an important factor in firms choosing ADR. The survey by Wissler (2004), however, reported the continuation of business relationships and in problem-solving skills. The IFC study (2006) notes mixed results on litigants' relationships.
Common types of alternative dispute resolution

Cost savings with alternative dispute resolution relative to court litigation

SETTLING OUT OF COURT

- United States Cited in Stipanowich 2004: Introduction of early mediation pilot programs: US$6,000 (per case)
- United States Barkai and Kassebaum 1992: Court-annexed arbitration program: US$400 (per party)
- FYR Macedonia, Serbia: ADR cost as percentage of GDP: 1%

Different processes is not feasible (see Menkel-ness of ADR. In addition, the legal treatment of different types of cases, the type of intervention, and the implementation process.

One study, performed by staff of the International Finance Corporation (IFC 2006), looked at the introduction of ADR centers in Kosovo. It evaluated the impact of ADR on time to disposition, cost, and legal treatment.

One study found that in some cases, ADR can reduce the total costs incurred by firms that use an ADR mechanism. The study estimated that in the United States, ADR mechanisms saved about 88 hours of staff time and about 6 percent of control cases.

The study also found that the total costs can be higher. Many cases that attempt to address ADR, mandatory mandatory, end up in court because the parties are inclined to file a lawsuit. The study estimated that for cases that failed to reach settlement by ADR, total legal costs were US$1,000–4,000 higher than they would have been if no ADR had been used.

This time is also referred to as time to disposition, and US$14,295 for litigation. Uniquely, this study found that mediation resulted in cases being decided faster for those cases. It estimated that mediation reduced the time to disposition by 4 months faster on average than traditional ADR. The study also found that mediation reduced the median time to disposition by 4,000 on average to the cost of litigation.

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Involving parties in a process that is different from that of the adjudicatory system can encourage a resolution of disputes, as the parties may be more likely to agree on a resolution because they are no longer in direct opposition. Individuals are also more likely to trust and cooperate with a third party mediator who is not a focal party. The mediator may use communication skills to establish a sense of fairness and to mediate a resolution between the parties. A mediator’s role includes facilitating communication between parties and helping them identify the real issues of the case. The mediator must maintain confidentiality and impartiality, as well as neutrality, while allowing the parties to negotiate and reach their own agreement.

Box 1: Mediation

Mediation is a process in which an independent third party (a mediator) facilitates communication between two or more parties to help them reach a mutually agreeable settlement. The mediator does not impose a solution but rather assists the parties in identifying and resolving their differences. In mediation, the parties have considerable control over the process and the outcome is not legally binding. It is therefore often referred to as an “agreement-based” process, as it encourages the parties to find a resolution that is acceptable to all. The mediator’s role is to help the parties explore their interests, clarify their positions, and generate options for resolving the dispute. The mediator may also provide information, suggest solutions, or facilitate the communication between parties. The mediator’s job is to facilitate a constructive dialogue, not to solve the problem for the parties. A mediator may use different techniques, such as paraphrasing, summarizing, clarifying, and reflecting, to ensure that the process is successful.

Impact on cost

Most studies have explored the effectiveness of ADR in reducing the costs of litigation relative to litigation. Estimates of cost savings from ADR vary widely depending on the type of ADR process, the case, and the jurisdictions. A study by Bingham and others (2007) found that the firms relied on ADR in 26 percent of their cases. They estimated that, on average, ADR saves about 38 percent of litigation costs relative to mediation. About 20 percent were mediated; the rest went back to court. The study found that firms that used ADR saved $225, about 50 percent of the costs of mediation. Many studies have explored the effectiveness of ADR in reducing the costs of dispute resolution. As shown in Table 1, estimates of cost savings differ in different jurisdictions, local conditions, and industries. As Table 1 shows, estimates of cost savings vary substantially from study to study, depending on the legal treatment of ADR across different jurisdictions and the local conditions. As Table 1 shows, estimates of cost savings vary substantially from study to study, depending on the legal treatment of ADR across different jurisdictions and the local conditions. As Table 1 shows, estimates of cost savings are not feasible (see Menkel-Meadows, 2006). In addition, the legal treatment of ADR is not always the same in different jurisdictions, which may result in more for- mality and time- consuming procedures. The IFC study found that after the court-annexed arbitration program in California, find that it shortened the time compared with a court process. While some studies have found that mediation results in no significant reduction in cost compared with litigation, others have found that mediation can save time and money. Rosenberg and Folberg (1994), in their study of the effects of mediation in California, found that mediation programs are more effective than litigation. While some studies have found that mediation results in no significant reduction in cost compared with litigation, others have found that mediation can save time and money. Rosenberg and Folberg (1994), in their study of the effects of mediation in California, found that mediation programs are more effective than litigation.

Impact on time

The direct impacts of cost and time savings for the parties participating in ADR processes are substantial. As mentioned above, ADR may also have indirect benefits for the parties participating in ADR processes. In his study of the impact of the ENE program in California, Barkai and Kassebaum (1992) find that the ENE program shortens the time compared with a court process. While some studies have found that mediation results in no significant reduction in cost compared with litigation, others have found that mediation can save time and money. Rosenberg and Folberg (1994), in their study of the effects of mediation in California, found that mediation programs are more effective than litigation.

Alternative or additional dispute resolution mechanisms and their impact on time savings

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Other less tangible benefits of ADR include improving the perceived quality of the legal system, better access to finance, and increasing trust in the fair resolution of conflicts. Chemin (2010) finds a causal relation between the introduction of ADR and the caseloads of judges and their staff. The direct impacts of cost and time savings for the parties participating in ADR processes are substantial. As mentioned above, ADR may also have indirect benefits for the parties participating in ADR processes. In his study of the impact of the ENE program in California, Barkai and Kassebaum (1992) find that the ENE program shortens the time compared with a court process. While some studies have found that mediation results in no significant reduction in time compared with litigation, others have found that mediation can save time and money. Rosenberg and Folberg (1994), in their study of the effects of mediation in California, found that mediation programs are more effective than litigation.

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Another possible effect of mediation could be an improvement in conflict resolution skills allowing for reduction in backlogs as much as possible or preventing them from building up. Some studies have found that ADR programs complement state dispute resolution systems. In support of that, Voigt (2009) finds that ADR programs for parties in a dispute is growing. Yet another possible effect of mediation could be an increase in trust in the legal system, which may increase foreign investment. ADR programs appear to be an attractive option in many developing countries because of their low cost and effectiveness. They provide an alternative to the perception of reducing the number of court backlogs, which can result in increased litigation. The views presented in this Note are those of the authors and should not be attributed to the World Bank or to any organization with which the authors are affiliated. This Note is available online: http://www.worldbank.org/fpd/publicpolicyjournal.
Another possible effect of mediation could be an increased willingness to compromise, which could play a role in reducing the costs of arbitration or other forms of dispute resolution. In some cases, mediation could be conducted in a single location or with nearby parties, thus avoiding the costs of travel or relocation.

Lastly, mediation can be helpful in reducing unnecessary court proceedings. For example, Bingham and others (2009) note that more frequent use of ADR services suggests that the quality of courts and the effectiveness of ADR programs complement state dispute resolution. In support of that, Voigt (2009) finds that for reducing the importance of well-functioning courts, ADR could improve the efficiency of the court system, which may increase foreign investment.

There is no empirical evidence on the effect of ADR on other important economic outcomes. There are also differences in the extent of ADR in a country. ADR may provide confidentiality, choice of parties, more flexibility of procedure, and other benefits. However, there are also disadvantages. ADR may also have indirect benefits. It can increase the effectiveness of courts by reducing backlogs. It can improve trust in the legal system, which may increase foreign investment.

Settling Out of Court

The ability to resolve a conflict in a more efficient and effective way can significantly reduce the costs of ADR. ADR mechanisms can also have indirect benefits. It can increase trust in the effectiveness of the court system, which may increase foreign investment.

What is ADR? ADR is defined in various ways across different countries. The World Bank, for example, defines ADR as any process or procedure other than court proceedings to resolve disputes which is either a rental, sale, or lease of intellectual property rights in which a neutral third party acts to facilitate a negotiated settlement. (Belgium and France are the only countries that include ADR in this definition.) The most commonly used types of ADR are mediation, arbitration, and conciliation (box 1). Others include, but are not limited to, negotiation, conciliation, fact-finding, and appointment of an expert. See the World Bank (2003) for more information on these methods of dispute resolution.

There are also different types of ADR mechanisms. ADR can be classified as either an alternative to litigation or as a substitute for litigation. In the former case, ADR is used to complement or supplement the existing legal system. In the latter case, ADR is used to substitute for the existing legal system.