

History of ADR and Conflict Resolution

by Sophia Tutorial



WHAT'S COVERED

In this lesson, we'll learn about Alternative Dispute Resolution (ADR) by discussing:

1. What is ADR?
2. The Growth of ADR
3. ADR in Communities

1. What is ADR?

Imagine that you've been wronged by a neighbor who has cut down a tree that was technically on your property. You determine that you have a legitimate claim against your neighbor, having looked at the local laws and the official property lines. Would you go straight to the courthouse and file a lawsuit against your neighbor?

You probably wouldn't because litigation is expensive and time consuming. Besides, you may wish to maintain a cordial relationship with this neighbor. You would like the dispute to be resolved, but you do not want to engage in public, time-consuming, expensive litigation to do it.

A common method of dispute resolution that avoids many of the challenges associated with litigation is alternative dispute resolution. While **Alternative Dispute Resolution (ADR)** is often used interchangeably with "conflict resolution," it is more often associated with processes used in lieu of a court process.

ADR can include many different methods of dispute resolution other than litigation, as long as they are outside the judicial process. Some types of ADR will involve a neutral party who has the power to resolve the dispute, while other types of ADR will leave that power to the parties themselves.



TERM TO KNOW

ADR

Alternative Dispute Resolution, a term often used interchangeably with conflict resolution, but more often associated with processes used in lieu of a court process.

2. The Growth of ADR

All cultures and societies have some form of ADR to keep the peace between individuals and groups, whether

or not they also have a formal judicial system as well.

ADR could include trusted elders making decisions about disputes between neighbors; mediation offered by someone whose role in the community is to mediate disputes, such as a couples therapist; or informal tribunals made of members of a community.

IN CONTEXT

In the United States, Native American cultures have used something called peacekeeping circles, which are a way of bringing a group together in a circle and allowing each person within that circle to both speak and be heard. Quite often, they'd use something called a talking piece; the person who was speaking would have that talking piece.

ADR has grown a lot within the United States, becoming a very popular way of solving and resolving conflict. Two big reasons for this are:

- ADR is a lot less costly than the court systems.
- ADR can be faster than going through the court systems.

However, there are other factors behind the growth of ADR. Let's look at an example from history.

 **EXAMPLE** ADR is a popular solution for instances of discrimination and civil rights violations in the U.S. In 1999, structured negotiation—a form of ADR—was used to settle a legal dispute in the U.S. for the first time, when negotiation resulted in Citibank agreeing to install A.T.M.s that provide voice options, which would make the machines more accessible for the vision-impaired.



DID YOU KNOW

The growth and popularity of ADR have even led to academic programs all the way up to the PhD level in which students focus on alternative dispute resolution techniques.

2. ADR in Communities

ADR processes also improve community relationships. We have therefore seen an increase in **community mediation**, or mediation services provided by community-based organizations (usually non-profits).

As we mentioned earlier, mediation services have become popular within court systems because they can relieve the court of certain cases when the court is overwhelmed with the volume of cases it receives.

IN CONTEXT

In the Twin Cities area, there are three non-profits focused on ADR: the Conflict Resolution Center in Minneapolis, the Conflict Mediation Services in New Hope, and the Dispute Resolution Center in Saint Paul.

These community-based mediation programs work within the courts, specifically in Hennepin County, where they work within Harassment Court and Housing Court. Within Housing Court, there's

even something called “pre-filing,” during which landlords can actually file and set up a mediation to settle a dispute before filing in court.

➦ **EXAMPLE** Many people prefer divorce mediation rather than going through courts. Once again, this is less costly, and it may be more efficient.

➦ **EXAMPLE** In victim offender reconciliation programs, a victim and an offender are brought together to address the wrong that was done. Community mediation programs have gotten involved with this sort of restorative justice. In some municipalities, there is an option for juveniles, as first-time offenders, to go through a mediation with a community-based program. If they successfully complete the program, their records will be expunged (removed from their record).

Additionally, police look at community mediation programs as places to refer local disputes, such as:

- Disputes between neighborhoods
- Disputes between neighbors
- Other issues that they can refer to mediation so as to keep their attention on crime



TERM TO KNOW

Community Mediation

Mediation services provided by community-based organizations (usually not-for-profits).



SUMMARY

In this lesson, you learned that **Alternative Dispute Resolution (ADR)** has grown a lot within the United States as a popular alternative to the courts. You now understand how **ADR can be used in communities** to improve relationships. Good luck!

Source: Adapted from Sophia tutorial by Marlene Johnson.



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