

## Why is it Urgent to Develop Alternative Dispute Resolution in Uzbekistan?

**Gulsanam Xatamjonova**

Master's degree graduate of TSUL

**Jurayev Jahongir Bahodir**

Teacher at TSUL

**Abstract:** Judicial system in Uzbekistan is based on Roman law system. Unlike common law system, in common law system the form of published judicial opinions is of primary importance, in Roman law countries codes, laws are predominant to set the legal framework in the country. That is because in Uzbekistan litigation has been the only method to resolve disputes between people. However, in the 21st century disputes are far more to settle in comparison with the previous centuries thanks to the growth of business. It is a well – known fact that nowadays, economical courts are clogged with various cases and the courts are becoming unable to solve the disputes effectively and in a limited time as the disputes continue to increase day by day. Evidently, now is the time to develop ADR in Uzbekistan to maintain the efficiency of courts and to discuss even small matters for effective resolution. Alternative Dispute Resolution can be beneficial to solve dispute matters quickly with small costs between parties, that is why parties, clearly businesses feel satisfied with ADR's quick solutions to their various problems. Nowadays in Uzbekistan, businesses are growing faster than ever before and they need quicker, cheaper methods than courts to actively engage and solve their conflicts effectively. In this case ADR would be the best method for dispute resolution. Because ADR is not as rigid as courts, since ADR can be adjusted under the will of parties, clearly in ADR parties' will is crucial and ADR processes can be commenced with parties' will to solve their disputes by ADR.

**Keywords:** Roman law system, common law system, designated parties, arbitration agreement, legal requirements, economical courts, consumer rights, parties' will.

Why is it possible to develop ADR in Uzbekistan?

Alternative Dispute Resolution methods are not new for Uzbekistan. They have existed in different forms through the years. Primitive versions of arbitration and mediation were available in nomadic system under the head of clan. Surely, we cannot tell they are the same with the current mediation and arbitration. Yet, the way of settling disputes are similar and suitable for the folk of clans. Methods of dispute settlement have been changing its appearance through the development of country. The use of dispute resolution methods in Uzbekistan is intertwined with the culture and religion of the nation. For centuries in Uzbekistan, people have sought resolution by referring their disputes to an elder person (aksakal) of their community<sup>1</sup>. Now the advanced version of mediation is applied in family matters under the mahalla (neighborhood) councils. Mahalla is a neighborhood or a local community. It is a fundamental residential community association<sup>2</sup>. Mahalla Councils are headed by a chairman, elected by the residents of Mahalla. These councils, among other functions, manage small disputes between residents of the neighborhood to maintain peace and good relations among the neighbors. Sometimes aksakals (judges) may deal with family disputes as well<sup>3</sup>. Because people in Uzbekistan do not always want to settle their family disputes with litigation and they do not want to talk about their family matters in an open court, since it is comfortable for them to resolve disputes under the mahalla councils. Even the government supports the usage of mediation in family matters in order to respect people's traditional views as well as decrease family cases in civil courts. Legally, the government has adopted the law named "On Mediation" to set legal guidelines to use in dispute settlement. This law explains, gives legal definition of mediation, mediators and presents ways to use mediation as a method of dispute resolution. The chief intention of the government on issuing the law is to increase the usage of mediation for disputes, decreasing filing for the courts simultaneously.

---

<sup>1</sup> Mediation Developments in Uzbekistan by *Anvar Aslanov and Sherzodbek Masadikov, Senior Fellows-Uzbekistan, Weinstein International Foundation*

<sup>2</sup> www.refworld.org : Uzbekistan: Role of "mahalla" in Uzbek society; whether mahalla are involved in extortion; state protection

<sup>3</sup> The Law of Republic of Uzbekistan on Institutions of Self-Government of Citizens, 1993.

Nowadays the current government takes important steps to encourage using commercial arbitration in commercial disputes more instead of litigation. For instance, the Parliament issued new law on international commercial arbitration named “On International Commercial Arbitration” on behalf of the Republic of Uzbekistan. This law is designed to create and become the first legal source of commercial arbitration in Uzbekistan. This law gives a clear definition of international commercial arbitration, arbitration agreement and presents guidelines to draft arbitration agreements, conduct arbitration processes, selecting arbitrators as well as enforcement of arbitration awards. Hence, this law presents businesses new opportunities to settle their disputes through effective, fast – tracking methods by taking barriers standing in front of businesses. Briefly, this law has become a milestone in development ADR in Uzbekistan.

What reasons make urgent to develop ADR in Uzbekistan?

**The growth of business.** Uzbekistan was socialist state under the USSR. There were no possession, no business, no private entities and everything belonged to the government. Consequently, there was no sign of emerging business or business disputes in that time. After independence, Uzbekistan has adjusted its way from socialist state to capitalist state successfully. As a result, private business has been developing for 30 years. Small businesses are increasing gradually. The government supports and helps private sector for more successful growth of business. As a consequence, the need for quicker, cheaper methods for dispute resolution puts a relentless imperative in front of the government to start taking actions for the development of ADR in order to maintain the gradual growth of business in the country. Actually, not only businesses need a quick method for dispute resolution, but also there is a huge need for quicker dispute resolution methods in civil cases too. People need alternative dispute methods to apply in family matters, intellectual property matters and so on. This need makes more urgent and important to develop ADR in Uzbekistan.

**Growth of disputes.** Obviously, increasing business means to increase disputes and conflicts among them. It is an ordinary situation. Increasing business and increasing commercial disputes simultaneously urge people to find an alternative way to settle disputes in the way they want. Naturally, the court system to settle dispute is not as comfortable as alternative dispute methods for business owners. Because, the court system is so rigid that they will not be able to change or adjust their dispute settlement manners based on arguing parties’ will. However, this is not the only thing. Court costs for settling disputes is much higher than alternative dispute methods’. Apparently, lower costs always attract more clients. Undoubtedly, business owners want to get more profit by spending less money. In this situation, ADR serves the best way for dispute settlement method.

What results does bring ADR to the country?

It is undisputable to examine results before taking some steps and it would be wise to examine first, acting next. Now we have to analyze what do we acquire by improving ADR in Uzbekistan.

**Less cases in courts.** Improving ADR encourages parties to use it rather than courts. Some parties are reluctant to initiate cases in courts because settling the disputes in courts rather standardized and parties are not entitled to make any changes during cases. Normally, business parties often want to settle their disputes quickly, so they prefer quick solutions to their problems because they do not have time to wait until the court issues perfect solutions to their cases. In those cases, ADR will be the best dispute resolution for them. In ADR parties’ will is important and they decide how to resolve disputes by setting the time, selecting arbitrators and so on. The next thing parties enjoy by ADR is the cost. Businesses always search best ways to get more by spending less. ADR is typically much cheaper and faster than engaging in litigation and resorting to the courts<sup>4</sup>.

**Higher productivity.** In Uzbekistan sometimes people, even consumers abandon their claim because of high court costs. Businesses take advantage from consumers because consumers are not able to protect their rights. Consequently, hundreds of consumers experience problems with purchase and unable resolve them with the business. Since, their problems left unresolved, this might lead people feel skeptical towards government’s protection policy. We need better methods for cheaper and effective dispute solution. In this case ADR could be the best choice for them by enforcing their rights faster and cheaper than litigation. This creates better access for customers because third party will handle disputes. Sometimes there is no need for a third party, parties will resolve their problems by themselves. This urges businesses to comply with consumer rights and will create a better consumer right protection. Increased compliance should improve competition, level the playing field and so lead to lower prices, better service quality and finally higher productivity through better resource allocation.

**Less government resource allocation.** Courts are non -profitable organization provided by the government. The government makes budget allocations to provide the courts. Improving ADR means less allocations to the court and

---

<sup>4</sup> <https://www.hclaw.com>

better government assistance programs. The government will be able to spend government budget to improve business, giving more help to the people who really need government assistance.

In conclusion, we cannot tell ADR is the best method for dispute resolution at any cases, sometimes it is much better to resolve disputes in courts. However, the development of ADR will be far more beneficial for quick dispute settlements and less cases in courts than expected.

#### References:

1. Mediation Developments in Uzbekistan by *Anvar Aslanov and Sherzodbek Masadikov / Senior Fellows-Uzbekistan, Weinstein International Foundation.*
2. Anton A. E. Private International Law – The Scottish Universities Law Institute, 1990. – 233 p.
3. Chukwumerije O. E. Choice of Law in International Commercial Arbitration – Quorum Books, 1994. – 112.
4. Berger M. Arbitration and arbitrability; Toward an Expectation Model // *Baylor Law Review* – 2018.
5. The Law of Republic of Uzbekistan “On Institutions of Self-Government of Citizens”, 1993.
6. The Law of Republic of Uzbekistan “On Mediation”, 2018.
7. The Law of Republic of Uzbekistan “On International Commercial Arbitration”, 2021.
8. [www.refworld.org](http://www.refworld.org) : Uzbekistan: Role of "mahalla" in Uzbek society; whether mahalla are involved in extortion; state protection.
9. <https://www.hcrlaw.com>