



Alternative Dispute Resolution and International Military Conflicts: Crafting a Sustainable Peace

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ABSTRACT

This article explores the expanding role of Alternative Dispute Resolution (ADR) in managing and resolving international military conflicts, highlighting its effectiveness as a non-violent approach to peacebuilding. As geopolitical tensions escalate and traditional warfare continues to bring devastating consequences, ADR mechanisms such as mediation, negotiation, and arbitration have gained prominence in the management of military disputes. The paper examines recent cases where ADR played a critical role, such as the India-China border skirmishes, the Minsk Agreements between Ukraine and Russia, and the Philippines' arbitration case against China over the South China Sea. These examples demonstrate how ADR can facilitate dialogue, reduce the risk of full-scale war, and address territorial and legal disputes. However, the paper also identifies significant challenges to ADR's success in military contexts, including deep mistrust between conflicting parties, disparities in power, and political influences from third-party actors. The role of international organizations, notably the United Nations, in promoting ADR is emphasized, with a call for reform to enhance the effectiveness and enforcement of ADR strategies. The article concludes with recommendations for expanding the use of ADR in conflict prevention, strengthening international legal frameworks, and fostering trust through education and dialogue to ensure sustainable peace in an increasingly volatile world.

Keywords: Alternative Dispute Resolution (ADR), Military Conflicts, Peacebuilding
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Prefatory Note

In this time marked by fast escalation of geopolitical conflicts and military skirmishes, traditional warfare generally triumphs, causing devastation behind it. Nevertheless, throughout these disputes, an alternative dispute resolution system Alternative Dispute Resolution (ADR) has arisen as an essential means to support peaceful outcomes. ADR isn't just for civil or commercial matters anymore; its usefulness in conflict management and resolution for military and international issues has grown. This article investigates the increasing tendency to use methods of alternative dispute resolution (ADR), including mediation, negotiation, and arbitration, to control military conflicts. The paper will stress current achievements, difficulties, and the growing part played by international organizations in fostering peace via ADR mechanisms.

The Function of ADR in Conflict Situations Involving the Military

ADR, known as Alternative Dispute Resolution, includes approaches like mediation and negotiation, along with arbitration, that collectively form coordinated strategies for handling complaints in ways distinct from violent approaches. As a consequence of military tensions, these methods are important tools for stopping total war, for easing tensions, and for addressing major issues, such as land claims or rapid access to resources. Traditionally escalating conflicts can now find mitigation in ADR methods that stress diplomacy, mutual advantage, and talk. During the recent conflicts on the Line of Actual Control (LAC) between India and China, a variety of military and diplomatic conversations has taken place in an attempt to prevent a major war. The negotiations function as supporting evidence that ADR is an essential tool for managing intense military disputes between leading nations.²

Central Mechanisms of ADR Related to Military Controversies

ADR does not adapt to all situations equally. Forms of ADR mediation, negotiation, and arbitration each have a unique contribution to deescalating Military conflicts.

1. Mediation

Developing venues for interaction with impartial third parties exists now. Of all the ADR mechanisms, mediation is probably the most frequently applied in military disputes. It generally comprises a disinterested third party, usually an international organization, helping to promote interaction among enemy factions. The motivation behind this is to encourage candor in discussions that don't quickly intensify the stakes, which eventually creates an environment

² Uppsala Conflict Data Program, UCDP Conflict Encyclopedia (2023).

conducive to a shared understanding. Efforts to mediate include the Minsk Agreements; reached in 2015, they attempt to settle the continuing conflict between Ukraine and separatists backed by Russia in the East of the country. Through their collaboration with the Organization for Security and Cooperation in Europe (OSCE), France and Germany have dedicated resources to mediation, assiduously seeking ceasefires and starting conversations. Even with existing tensions, the Minsk agreements proved that mediation can operate as a pause mechanism to diminish violence and build the required groundwork for detailed negotiations for peace. The Comprehensive Peace Agreement from 2005 stresses the requirement for mediation to resolve the many years of civil conflict in Sudan. In 2011, South Sudan gained independence because of a deal supported by IGAD and backed by the United Nations. Absence of mediation could have caused a lasting conflict that might have triggered major increases in regional instability.

2. Negotiation: Direct Diplomatic Engagement

ADR includes negotiating as an important aspect, which features either direct contact between opposing parties or a third party mediation. Accomplished negotiation demands that both participants are willing to embrace diplomacy and to compromise, a remarkably difficult task in the course of extended military conflicts. To illustrate, during the 2020 India-China border skirmishes, numerous bilateral talks took place comprising high-level military negotiations, designed to reduce tensions. Although the border tension has not yet been resolved, these negotiations prohibited a full-scale war between the two nuclear armed countries. Reports state that over 10 discussions occurred between Indian and Chinese military commanders, which resulted in disengagement accords along a number of areas of the disputed frontier.

3. Arbitration: A Resolution Binding Territorial and Legal Conflicts

The essential distinction between arbitration and other forms of ADR is that it gives a decision that is binding, provided by an unbiased arbitrator or panel, usually in disputes related to borders or the law. In spite of the fact that it happens infrequently in blatant military conflicts, arbitration can address the foundational sources of these disputes. In 2013, the Philippines took the step of beginning arbitration actions focused on China in the South China Sea. China's claims in a vast section of the South China Sea do not have a legal basis, the Hague's Permanent Court of Arbitration ruled in 2016 based on the United Nations Convention on the Law of the Sea (UNCLOS). While China is not recognizing the verdict, this case points to the value of arbitration as a diplomatic means to adjudicate important International Organizations in ADR Therapy

Various international and regional organizations such as the United Nations (UN), NATO,³ African Union (AU), and European Union (EU) are active in the promotion of ADR especially as an alternative in the resolution of military conflicts.⁴

The United Nations: A Diplomatic Juggernaut

The UN has been in the forefront in advocating ADR more so with the peace keeping operations and the political processes. For instance, countries in crises, most of the time, UN's Department of Political and Peacebuilding Affairs assumes a position of the third party in order to resolve problems. Since its creation in 1945 to the present date, the organization has been involved in more than 50 conflicts as mediator all of these more-often being justified in the maintenance of peace and stability between nations.⁵

The Camp David Accords that were successful after several mediation by the UN between Egypt and Israel in 1978, was one of the most remarkable interventions through ADR. This case enjoyed the various forms of dispute resolutions available, not because it was a military conflict per se, but because it is one of the recent histories where the UN engaged in diplomacy to stop wars before any escalated violence occurred. More recent, the Civil war in Yemen has seen the warring parties remain in contact thanks to the mediation efforts of the UN.⁶ On the other hand, the UN-sponsored Stockholm Agreement of 2018, while tenuous, represented a turning point in the ongoing violence in the country that has witnessed years of war. This civil war which reported to have killed more than 230,000 people and became the worst humanitarian crisis in history of humankind,⁷ almost spiraled into something worse without the help of the United Nations.

NATO Approach to Conflict Management

NATO may be viewed as a military organization; however, the organization also resorts to third party intervention and the resolution of disputes. For example, the collective defense organization NATO refocused its efforts towards Kosovo in 1999 where not only military intervention was planned but also active diplomacy was conducted.

³ Ibrahimy, H. (2023) The American War in Afghanistan concluded precisely as it had begun, but the outcome was war crime, SSRN. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4350363 (Accessed: 15 November 2024).

⁴ Wasiq, M.R. (2022) 'Responsibility to protect (R2P) and its implementation: A glance on Kosovo, Chechenia, Libya, and Syria', SSRN Electronic Journal [Preprint]. doi:10.2139/ssrn.4314789.

⁵ The World Bank, Preventing Violent Conflict Through Mediation: The Role of International Financial Institutions (2022).

⁶ United Nations, The Stockholm Agreement (2018).

⁷ UN Human Rights Office, Yemen Conflict: Death Toll Exceeds 230,000 (2020).

Obstacles to the Execution of ADR in the Armed Forces

In theory, ADR can be applied in respect of any conflict situation. However, it is especially the case with military conflicts that there are many obstacles to employing ADR.

1. Trust Deficit and Ingrained Hostilities.

Trust is one of the main conditions needed for the effective implementation of ADR. However, when it comes to military conflict, more often than not, a culture of trust is absent due to deep mistrust and historical issues.⁸ As stated previously, mediators have been brought into the Israel-Palestine conflict in an attempt to make some progress; the effort has, however, been futile as both parties refuse to budge regarding core issues; for instance, borders and Jerusalem.

2. Disparity in Strength between the Parties

There are cases when the parties to a dispute can be involved in a conflict and one of the parties is much stronger than the other where the stronger side has little if no motivation to go through the ADR process. In the case of the Russia-Ukraine conflict,⁹ for example, there were times when peace talks had to be put on hold because of the tendency of the Russian military superiority to be brought down forcing other players willing on mediation to back off.

3. Political Influences of Third Countries

Third parties are commonly responsible for the escalation and the extension of the hostility period. For example in the Syrian Civil War,¹⁰ – in addition to the numerous nations involved (United States, Russia, Turkey), such competition has made mediation impossible and a political outcome quite difficult to reach.

Going Beyond: Enhancing ADR Towards Lasting Peace

To make ADR effective in non-violent conflicts and military disputes, there needs to be reform of the international laws and policies that achieve accountability and enforceability. The primary focus should be on preventive diplomacy,¹¹ which is aimed at resolving disputes before they lead to violence. The example here is that the United Nations Security Council (UNSC) under such a

⁸ UNDP, Addressing Trust Deficits in International Peacebuilding Efforts (2020).

⁹ European Council, Ukraine Crisis: Timeline of EU Action (2022).

¹⁰ United States Institute of Peace, The Syrian Civil War: Competing Interests and Mediation Challenges (2021).

¹¹ United Nations Peacekeeping, Preventive Diplomacy: UN Efforts to Prevent Conflicts (2022).

provision may be more pre-emptive and demand the engagement of mediation or arbitration as a precondition to military action.¹²

The Place of ADR in Contemporary Conflict Resolution

At the beginning of the 21st century new threats emerged in the field of peace and security but ADR gives a way out of it. Assuming nations stand firm and international organizations remain supportive, ADR has the potential of becoming a more active mechanism for solving military confrontations, preventing war, and establishing a permanent peace. It is true that there are still problems, nevertheless the Minsk Agreements and the Camp David Accords¹³ are examples of how even the most general conflicts can have ADR applied to their resolution. The challenge remains to sharpen and widen the scope of these methods so that diplomacy and talk conquers war. In order to realize this aim, it is vital to consider ADR as part and parcel of conflict resolution methods of any magnitude; be it a local conflict or a global one. It is important for governments, military factions as well to realise the importance of having one's issues resolved through ADR, rather than through conflict.

Furthermore, the UN and other international bodies must be empowered to apply ADR strategies prior to the outbreak of hostilities. Also, in that civil society and NGOs present social capital in conflict resolution and transformation, peace education could be promoted, and trust among the conflicting parties enhanced as well as dialogue engendered even in the highly contentious environments sustained by the most poles apart conflicting parties. Communication can also be improved through the use of technology for the purpose of ensuring transparency, provision of conflict de-escalation techniques in the course of the conflict and urgent situations where face to face interaction cannot be achieved.

Furthermore, accountability has to go hand in hand with the prolonged efforts for the institutionalization of ADR in armed conflicts. For this purpose, comprehensive systems for ensuring adherence to mediation or arbitration outcomes and imposing penalties for breaching them should be developed. One innovation coupled with one subvention policy cannot work for ADR this has to find a long lasting solution in the contemporary society which is still riddled with military operation threats. In the end, how well or effectively approach will replace the particular one constitutes a crucial question for the future of international peace. In this respect, it is not only

¹² Security Council Report, The Role of the UN Security Council in Mediation (2020).

¹³ United Nations, Camp David Accords: A Historical Overview (1978).

the solution for existing disagreements but also a leeway, such as getting into an advance bowl installed in a footpath, to avoid getting drenched in the future. As ever, it is the global community that must put resources in these peaceful approaches and prioritise the use of diplomacy rather than destruction.¹⁴

Conclusion

In conclusion, the growing role of Alternative Dispute Resolution (ADR) in international military conflicts offers a promising avenue for reducing violence and fostering sustainable peace. As demonstrated by recent cases such as the India-China border skirmishes, the Minsk Agreements, and the Philippines' arbitration case against China, ADR mechanisms—whether through mediation, negotiation, or arbitration—can significantly mitigate tensions and provide pathways to resolution that avoid the catastrophic consequences of full-scale warfare. However, the effectiveness of ADR in military conflicts is not without challenges, including deep mistrust, power imbalances, and the complex political dynamics involving third-party actors. These obstacles underscore the need for reform in international legal frameworks and enhanced support from international organizations like the United Nations to ensure the success of ADR strategies. For ADR to become a more reliable tool in conflict prevention and resolution, it must be integrated into the global security framework as a standard mechanism for addressing military disputes before they escalate into violence. This requires not only a commitment from governments and military factions to prioritize dialogue and compromise over conflict but also a concerted effort to promote trust-building, transparency, and education in peacebuilding processes. Furthermore, strengthening international systems for accountability and enforcing the outcomes of ADR agreements will be crucial in ensuring long-term stability. Ultimately, while ADR alone cannot guarantee the cessation of all military conflicts, it provides a viable and constructive alternative to the destructive nature of war. By investing in ADR and supporting its widespread application, the international community can make significant strides toward achieving lasting peace in a world increasingly defined by geopolitical tensions and military confrontations. As we look to the future, the challenge lies in broadening the scope of ADR and embedding it into the fabric of global conflict resolution efforts, ensuring that diplomacy and dialogue replace violence as the preferred means of resolving disputes.

¹⁴ Wasiq, M.R. (2023) United Nations Security Council Powers, practice, and effectiveness of Security Council, SSRN. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4344596 (Accessed: 15 November 2024).

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