

DECENTRALIZING JUSTICE: STRENGTHENING LEGAL FRAMEWORKS FOR LOCAL SELF -GOVERNANCE AND GRASSROOTS DISPUTE RESOLUTION

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Abstract

Across the Global South and North alike, courts are overburdened, legal costs deter participation, and justice often arrives late. Decentralizing justice—through empowered local self-governance institutions and community-level dispute resolution—offers a complementary pathway that can widen access, reduce delay, and embed justice within everyday life. This paper develops a comprehensive account of why and how to strengthen the legal frameworks that enable grassroots dispute resolution. It synthesizes theory from legal pluralism, polycentric governance, and restorative justice; surveys comparative experiences (including village or barangay justice, customary forums, community courts, and state-recognized mediation); and examines opportunities and pitfalls in operationalizing decentralization in contemporary constitutional democracies (with illustrations from India, Kenya, the Philippines, South Africa, New Zealand, and Canada). The analysis foregrounds the tension between accessibility and rights protection, emphasizing due process, gender equality, minority safeguards, and appellate oversight as non-negotiable architecture.

Methodologically, the paper adopts a doctrinal and comparative approach, augmented by a design-oriented “law-in-action” framework that translates principles into implementable institutional blueprints. It proposes a model statute and policy toolkit: (1) clear legal recognition of community forums; (2) jurisdictional design focused on civil, family, tenancy, neighborhood, and low-value commercial matters; (3) standardized training and accreditation for community mediators; (4) layered oversight and review by regular courts; (5) data, funding, and outcome-tracking; and (6) digital-first infrastructure with ethical online dispute resolution (ODR). The paper concludes that decentralization can democratize justice only if it is normative anchored in constitutional values, procedural disciplined, and empirically stewarded through evidence-based governance.

Keywords: access to justice; legal pluralism; polycentric governance; restorative justice; local self-government; online dispute resolution.

1. Introduction

Courts in many jurisdictions face chronic backlogs, procedural complexity, and high transaction costs that collectively exclude individuals—especially women, the poor, rural residents, and linguistic minorities—from timely relief. While increasing judicial capacity is essential, it is insufficient on its own. Justice is not only a function of judicial output but of institutional proximity, cultural legitimacy, and the capacity to DE-

escalate social friction before it hardens into litigation. Decentralizing justice situates problem-solving closer to the disputants, leverages community knowledge, and activates non-adversarial tools such as mediation and restorative conferencing.

Local self-governance (e.g., panchayat, ward committees, village councils, tribal/First Nations governments) is uniquely placed to host grassroots dispute resolution. Yet many countries oscillate between ignoring local forums, tolerating them informally, or recognizing them without sufficient safeguards. The result is a patchwork system where promise and peril coexist: some forums deliver swift, consensual solutions; others risk social coercion, elite capture, or rights violations. The central question is therefore not whether to decentralize, but how to build **legal frameworks** that enable community-level resolution while entrenching constitutional values.

This paper advances three claims. First, decentralization is most effective when designed polycentrically, with multiple centers of problem-solving linked through clear norms and feedback loops. Second, rights-respecting decentralization demands robust procedural guarantees and appellate pathways. Third, implementation must be data-driven and resourced, not rhetorical. We propose a model that any constitutional democracy can adapt with context-specific modifications.

2. Literature Review

Access to Justice and Institutional Design. The “justice gap” literature emphasizes cost, distance, and complexity as primary barriers. Scholars document that early, informal interventions often produce durable settlements at lower cost than adversarial adjudication. Access to justice (A2J) theory therefore supports multi-door courthouse models and community-based alternatives as complements to formal courts.

Legal Pluralism. Following Sally Engle Merry and Boaventura de Sousa Santos, legal pluralism recognizes the coexistence of state, customary, religious, and transnational normative orders. Pluralism can be a resource: where state courts are distant, customary or community forums may be the only accessible law. However, pluralism also raises equity risks—especially for women, children, and minorities—if customary norms conflict with constitutional guarantees.

Polycentric Governance. Elinor Ostrom’s work on polycentricity highlights how multiple decision centers can enhance adaptability and accountability when coordinated by common rules. In justice systems, polycentricity implies networked forums (courts, tribunals, mediators, ombudsman, community panels) that share information, respect jurisdictional boundaries, and maintain supervisory review.

Restorative Justice. John Braithwaite and others show how restorative practices focus on repairing harm, reintegrating offenders, and empowering victims and communities. Restorative approaches align naturally with local forums, especially for juvenile, family, neighborhood, and low-level criminal matters—provided participation is voluntary and power asymmetries are mitigated.

Informal Justice and Power. Marc Galanter’s insights (“Why the ‘Haves’ Come Out Ahead”) warn that repeat players exploit systemic advantages; unchecked informality can entrench those advantages. Feminist legal scholars further show how “community” can mask patriarchal control unless law builds counter-power mechanisms (e.g., gender-balanced panels, legal aid, confidentiality, anti-retaliation norms).

Technology and ODR. Research on online dispute resolution demonstrates that structured, platform-mediated negotiation and mediation can increase settlement rates, reduce cycle time, and maintain records for oversight. Yet ODR must be designed for inclusive (language, accessibility, offline options) and privacy.

Taken together, the literature supports **guarded optimism**: decentralization expands justice only when **formally recognized**, **constrained by rights**, and **connected** to the state judiciary.

3. Conceptual Foundations

3.1 What Do We Mean by “Decentralizing Justice”?

Decentralization here refers to **recognizing and empowering local institutions** to resolve disputes within defined jurisdictions through consensual processes (mediation, conciliation, restorative conferencing) and, where appropriate, limited adjudication on specified subject matter. It is not a retreat of the state; rather, it is a **reconfiguration** of the state’s justice function across levels.

Decentralizing justice refers to the deliberate transfer of dispute-resolution authority and mechanisms from centralized state-controlled courts to **local, community-based, or semi-autonomous institutions** that are closer to the everyday lives of citizens. It is not a wholesale replacement of formal courts, but a re-balancing of the justice ecosystem to include multiple layers of accessible and participatory forums. The idea rests on three interconnected dimensions: **institutional, procedural, and normative.**

Institutional Dimension

Decentralization expands the sites where justice is produced. Instead of limiting dispute resolution to state courts located in urban centers, justice delivery is distributed across panchayat, **ward committees, local councils, community mediation centers, and customary or tribal forums.** This brings justice system physically and symbolically close to the citizens. The institutional structure acknowledges that justice is not merely a vertical action of the state authority but it is also a horizontal process that is inherent in communities.

Procedural Dimension

Justice decentralization reinvents the dispute resolution processes. Rather than strict protocols which are based on an adversarial opponent, decentralization is conducive to dialogical, conciliatory and restorative practices. The procedures are more lenient, culturally responsive, and less threatening, whereby citizens are encouraged to participate. They are more concerned with consensus, mutual accommodation and social harmony, yet they are not out of touch with the constitutional rights and the protection of due processes.

Normative Dimension

In addition to the institutions and processes, decentralization is also a normative project. It attacks the monopoly of state-only justice by acknowledging the plurality of legal orders - customary law, religious norms and community ethics - as long as they do not violate constitutional principles of equality, dignity and human rights. In this aspect, decentralization of justice recognizes that communities do not only receive the law but also contribute to the creation of norms of justice.

Not a Retreat but a Reconfiguration

Notably, the aspect of decentralization does not imply that the state will be abdicating its constitutional role in defending rights. Instead, it suggests a restructuring of roles: local forums deal with conflicts that are more appropriately resolved on the community level, and higher courts are the custodians of fundamental rights, the resolvers of complicated legal issues and the reviewers of appeal. It is a complementary relationship and not a competitive one.

Empowerment and Participation

Decentralization of justice is also concerned with the democratization of access, i.e. the citizens being empowered to become an active party in the conflict-solving process. It makes communities feel that they own justice and saves reliance on far-away expensive and overstretched court systems. It reflects the subsidiarity principle: the decisions must be made as near to the citizen as possible, and it is up to the higher authorities to interfere when the situation dictates.

Dynamic and Context-Specific

Decentralization of justice does not have a uniform meaning but depends on the context. In rural settings it can be through empowerment of panchayat or customary leaders; in urban setting it can be community mediation boards or housing society tribunal; in digital society it can be online dispute resolution (ODR) which has a decentralising through technology. The fundamental ideal is flexibility- justice must be crafted to suit the needs of the people and not forces the people to conform to the stiff systems.

3.2 Normative Anchors

The decentralization is based on five anchors of a rights-respecting decentralization:

Constitutional Supremacy: Every forum at the local level is subjected to the rule of the basic rights and equality.

Due Process: voluntarism, neutral facilitation, rational results and documentation.

Proportionality: Jurisdiction that was limited to those issues that could be resolved through consensual means or a summary adjudication.

Accountability: Accountability Training, accreditation, audit, data transparency and appellate review.

Inclusive: Sexual equality, inclusion of marginalized groups, access to language, disability provision, and child sensitive procedures..

3.3 Why Local Forums?

Relationships and Distance: Controversy parties tend to embrace the resolution of outcomes of culturally readable forums.

Speed & Cost: Light lean processes solve daily conflicts prior to escalation.

Problem-Solving Orientation: Mediation facilitates relationship repair and settlements on an interest-based basis.

Social Learning: Norms are produced by communities, making them more compliant and lowering recidivism.

4. Comparative Lessons

4.1 Philippines: *Katarungang Pambarangay* (Barangay Justice)

The Barangay Justice System requires many minor civil and criminal cases to be conciliated in the village level in order to file cases in court. Settlement are done through panels of respected members of society. Such strengths are high settlement rates and cost savings, criticisms are on quality of mediator, asymmetry of power in some cases, and inconsistent record-keeping. The design insight: pre-court conciliation with opt-out requirements on domestic violence or power-sensitive cases.

4.2 Kenya: Alternative Justice Systems (AJS) Policy

The 2010 Constitution of Kenya accepts traditional dispute resolution provided that it does not violate the Bill of Rights. The AJS Policy of the judiciary of 2020 shapes the norms of community-based resolution under the state supervision, such as agreement registration and access to courts. The wisdom: policy operationalization and constitutional recognition enhances respectful plural forums integration.

4.3 South Africa: Customary Law under Constitutional Review

South Africa also acknowledges customary law provided it is in line with the Constitution and statutory law and therefore allows traditional authorities to settle disputes, particularly in family and property. Courts have a power of review to guarantee equality and dignity to manage tensions of patriarchy and land claims. Intelligence: the plural environments cannot do without judicial custody.

4.4 New Zealand and Canada: Indigenous-Led Justice

New Zealand's Rangatahi and Pasifika Courts adapt the youth justice system to Māori and Pasifika cultural contexts with community participation. In Canada, Indigenous legal orders and tribal courts evolve through agreements and federal-provincial frameworks. Insight: **co-design** with Indigenous communities ensures legitimacy and better outcomes for youth and restorative processes.

4.5 India: Local Justice Ecosystem (Illustrative)

India features a mosaic: **Lok Adalats** (people's courts) for settlement; **Legal Services Authorities** for legal aid and mass conciliation; **Gram Nyayalayas** (mobile village courts) statutorily envisaged but unevenly implemented; **panchayats** and **urban local bodies** as self-governance units; and a new **Mediation law** that standardizes mediation and community mediation programs. Lessons include the power of **statutory scaffolding** and the implementation gap created by under-funding, vacancies, and lack of training.

4.6 Rwanda: Gacaca (Cautionary Tale)

The Gacaca community courts were a phenomenal reaction to phenomena crimes (post-genocide). They handled huge caseloads but were criticized to have limitation on due-process and politicization. The warning: size and pace should not be more important than justice, and transitional models are not the blueprints of normal local justice.

Comparative Takeaway: Durable decentralization consists of combining legal recognition, procedural protection, co-design, and supervisor review. The success characteristics include pre-court conciliation, accredited mediators, community representation, and robust appellate pathways.

5. Mapping the Legal Terrain

5.1 Recognition and Jurisdiction

A model framework should:

Recognize local forums (e.g., Community Mediation Boards, Village Justice Panels, Ward Conciliation Committees) as legal entities.

Define Subject-Matter Jurisdiction: neighborhood disputes, petty property damage, small consumer claims, tenancy and maintenance issues, family conciliation (non-coercive), workplace micro-disputes, school and youth issues, and certain compoundable offenses where law permits.

Set Monetary Limits for civil claims; exclude non-compoundable offenses, serious violence, and matters involving structural power asymmetries (unless special protections apply or the forum's role is supportive, not determinate).

5.2 Procedures and Safeguards

Voluntarism for mediation; informed consent; right to counsel or support person.

Notice and Fair Hearing standards; calibrated confidentiality with exceptions for safety.

Panel Composition: gender-balanced, community-representative, with conflict-of-interest rules.

Accreditation & Training: ethics, trauma-informed practice, child-sensitivity, equality and anti-discrimination, basic law, and documentation.

Records & Reasoned Minutes: succinct, standardized forms stored securely.

5.3 Outcomes and Enforce ability

Mediated Settlements: written, plain-language agreements, translated where needed; file-and-seal options for court enforce ability.

Administrative Orders (where statute allows limited adjudication): appeal-able to magistrate or district courts; interim measures for urgent relief by regular courts remain available.

5.4 Oversight and Review

Appellate Pathway: de novo review for adjudicatory outcomes; limited review (fraud, coercion, manifest injustice) for mediated settlements.

Judicial Supervision: high courts or equivalent maintain rule-making power, quality audits, and training standards in partnership with a statutory commission or legal services authority.

Ombudsman/Inspectorate: independent complaints mechanism; protection against retaliation for whistle blowers and vulnerable parties.

5.5 Resourcing and Data

Dedicated Funding: per-capital grants to local bodies tied to justice performance indicators.

Data Architecture: anonymize dashboards on filings, settlement rates, time-to-resolution, compliance, dis-aggregated by gender, caste/ethnicity, age, disability, and location.

Learning Loops: annual public reports; randomized evaluations or implementation trials.

5.6 Technology and ODR

Hybrid Access: kiosks at local offices, mobile vans, and online portals; SMS/IVR for low-literacy access.

Ethical ODR: no dark patterns; explain-ability; multilingual; accessibility standards; robust privacy and cybersecurity.

E-Lok Adalats / Online Mediation Days: scheduled bursts for clearing community-suitable dockets.

6. A Model Policy and Legislative Blueprint

6.1 Model Short Title and Purpose

Community Justice and Mediation Act (CJMA).

Purpose: To enhance access to justice by legally recognizing community-level mediation and conciliation forums; guaranteeing rights-compliant procedures; and integrating outcomes with the state judiciary.

6.2 Institutional Design

Community Justice Boards (CJBs): Constituted at village/ward level; 5–7 members; term-limited; at least 50% women; reserved seats for marginalized communities; one legally trained facilitator seconded from legal aid services.

Accredited Community Mediators (ACMs): Individuals trained (minimum 40–60 hours foundational + continuing education), impaneled at district level.

District Justice Resource Center (DJRC): Training hub, ODR support, data unit, ethics desk.

Appellate Linkages: Magistrate/District Court registry for filing settlements and hearing appeals.

6.3 Jurisdiction & Case Intake

Civil: property boundaries under specified values; small contracts; consumer and services; housing society/maintenance; water, irrigation turns; neighborhood nuisance.

Family & Youth: marital conciliation (strictly voluntary; immediate opt-out for domestic violence); child-school conflicts; restorative conferences for juveniles in petty offenses.

Criminal (Where Permitted by General Law): compoundable offenses; community service agreements; restitution plans; referrals from police and prosecutors.

Exclusions: serious offenses; sexual violence; non-compoundable crimes; constitutional torts; cases with credible threats of coercion.

6.4 Process Flow

Screening: conflict-of-interest check; domestic violence risk assessment; language and accessibility needs.

Preparation: re-mediation caucus; explanation of rights; option to bring counsel or support person.

Mediation/Conferencing: facilitated dialogue; attention to power dynamics; breaks and shuttle diplomacy as needed.

Outcome Drafting: plain-language settlement or no-settlement statement; cooling-off period (e.g., 72 hours) for reflection before filing; translation provided.

Filing & Enforcement: voluntary filing with court registry; deemed “consent decrees” enforceable as civil judgments.

Appeal/Review: adjudicatory decisions (where authorized) appeal-able within 30 days; settlements challenge able on coercion, fraud, or manifest unfairness.

6.5 Rights and Safeguards

Bill of Rights for Users: voluntarism; equality and non-discrimination; confidentiality; safety; interpreter and accessibility support; legal information and referrals; right to withdraw.

Anti-Capture Measures: randomized mediator assignment; rotating panel chairs; annual external audits; conflict-of-interest disclosures published.

Gender & Child Protections: presence of a trained woman mediator in all gender-sensitive disputes; child-friendly spaces; trauma-informed practice.

6.6 Integration with State Institutions

Police and Prosecutor Protocols: diversion guidelines; thresholds for referral; tracking compliance with restorative plans.

Court Protocols: re-filing conciliation for specified civil matters; judicial referral at case management conferences; recognition of settlements; proportional costs for unreasonable refusal to mediate.

Legal Aid & Civil Society Partnerships: duty-counsel model; community paralegals; NGO-run mediation clinics under accreditation.

6.7 Funding and Incentives

Dedicated Grants: formula-based and performance-adjusted; grant conditions tied to transparency and inclusion targets.

Stipends: for community mediators per session with caps to prevent perverse incentives.

Innovation Fund: pilots for ODR, mobile justice vans, language technology, and behavioral nudges (e.g., reminder SMS increasing attendance).

7. Implementation Roadmap

7.1 Phase I: Foundation (0–12 months)

Enact CJMA or amend existing mediation/conciliation statutes to authorize community forums.

- Set up DJRCs; publish accreditation standards; begin mediator training and certification.
- Build ODR platform with offline kiosks; translate interfaces into major local languages.
- Identify pilot districts/municipalities with diverse socio-cultural profiles; establish baseline data.

7.2 Phase II: Pilot & Learn (12–24 months)

- Run pilots with randomized encouragement designs to evaluate uptake and outcomes.
- Introduction of special tracks: family conciliation, housing/tenancy, small-business disputes.
- Safety audits and independent ethnographic evaluations should be conducted in order to identify coercion or bias.
- Issue quarterly dashboards; modify protocols in response to empirical feedback.

7.3 Phase III: Scale with Safeguards (24–48 months)

- Extend to any district meeting minimum service standards (distance to closest forum, maximum time-to-session).
- Enable continuing education to be instantiated; make re-accreditation annually depending on the quality of practice.
- Include community justice indicators in state/national justice scorecards and financial transfers.
- Carry out commission independent impact evaluations after every two years.

8. Risks, Critiques, and Mitigation

Elite Capture and Social Coercion.

Risk: Local actors play an influential role; there is pressure on the parties to compromise.

Mitigation: Stable mediator assignment; secret-ballot satisfaction questionnaires; cooling-off period; significant avenues of appeal; anti-retaliation measures and penalties.

Gender and Minority Disadvantage.

Risk: Customary norms disadvantage women or minorities.

Mitigation: Binding equality clauses; mandatory gender-balanced panels; targeted legal aid; presence of trained women mediators; ability to bypass community forum for sensitive matters.

Due Process Deficits.

Risk: Informality elides notice, evidence, or reasoned decisions.

Mitigation: Standardized forms; rights notice; recorded (audio/text) minutes; reasoning requirement; supervision and audits.

Forum Shopping and Fragmentation.

Risk: Multiple centers create confusion and inconsistent outcomes.

Mitigation: Clear jurisdictional maps; centralized registry; conflict-of-laws rules; doctrine of comity and precedence for constitutional rights.

Digitization Exclusion.

Risk: ODR excludes low-literacy or digitally poor households.

Mitigation: Assisted-digital kiosks; SMS/IVR access; language localization; offline-to-online bridging by paralegals.

State Abdication

Risk: Decentralization used to offload responsibility without resources.

Mitigation: Statutory funding guarantees; judicial oversight; performance-linked grants; public reporting.

9. Measuring What Matters: A Monitoring & Evaluation (M&E) Framework

Inputs: number of accredited mediators; training hours; budget utilization; kiosk/ODR availability.

Processes: time from intake to first session; notice compliance; representation of women and marginalized groups on panels.

Outputs: settlement rate; average time-to-resolution; appeal rate; agreement compliance after 90/180 days.

Outcomes: user satisfaction; reduction in court filings in eligible categories; cost savings to parties; recurrence of disputes.

Equity Lens: dis-aggregated metrics (gender, caste/ethnicity, disability, age, rural/urban); track opt-outs and non-attendance causes.

Learning Cycle: quarterly reviews; adaptive protocol updates; publication of anonymize datasets; independent audits, including qualitative community feedback.

10. The Role of Legal Education and the Bar

Clinics and Community Labs: Law schools must have mediation clinics as well as paralegal field stations that combine service and pedagogy.

Trial Mediator Training: Bar councils and judicial schools jointly develop mediator training; CLE credits through community service.

Ethics and Professional Identity: Establish community justice as part of professional ethics syllabus; prize settlement quality and client empowerment in addition to litigation prowess.

11. The Political Economy of Decentralization

Decentralization recombination of power and rent. Local elites might be opposed to supervision; lawyers might risk losing their legal business; bureaucracies may have their turf. The reformers are supposed to form coalitions: women organizations, legal aid groups, micro-enterprise groups, local governmental network, and progressive bar leaders. The Fiscal levers (performance-based grants), reputation (public dashboards), and normative (constitutional storytelling of dignity and equality) levers contribute towards maintaining the momentum. It works through the demonstration of win-wins in cut court backlog, smiling citizens, saving small businesses money, etc. turns the naysayers.

12. A Context-Sensitive Adaptation Guide

If Your System Is Highly Centralized

Begin with **pilot recognition** of community mediation boards under a national mediation statute.

- Use judicial referrals and opt-in pre-court conciliation to build legitimacy.
- Invest early in **data and training** rather than large infrastructures.
- If You Already Have Customary Forums

- Enact a **rights-alignment statute**: enumerate binding rights; require documentation; create review mechanisms.
- Fund **co-designed training** with community leaders; avoid top-down imposition.
If Digital Penetration Is High
- Lead with **ODR-first design**, backed by offline inclusive measures.
- Build **APIs** that sync with court registries for seamless filing and enforcement.
If Gender Inequality Is Acute
- Introduce **mandatory gender parity** on panels; specialized **women's justice cells** with trauma-informed mediators.
- Provide **confidential opt-outs** and direct referral pathways to protection services and specialized courts.

13. Discussion: Reconciling Unity and Diversity

A constitutional democracy has to have common base of rights and yet tolerate different communities to display their normative preferences. The idea of decentralized justice is not the idea of relativism; it employs the dialogue between the community values and the constitutional commitment in an institutionalized way. Courts are protectorates at the gate, making pluralism enhance and not degrade equality and dignity. Pragmatically, decentralization is a portfolio approach: such conflicting situations ought to be addressed using different instruments: by mediation in cases of interests based neighborhood conflicts, restorative panels in the youth, and formal courts in cases of public law, precedent and serious crime.

14. Conclusion

Decentralization of justice is no panacea or threat per se. Its value turns on design. Once community-based forums are constitutionalized, well-endowed and normative bonded to constitutional ideals, they are capable of providing rapid, intelligible and equitable results to the conflicts, which mark the daily life. In cases where procedural and equity protections are overlooked, decentralization may solidify hierarchies and gag the vulnerable.

This article has described a roadmap to rights-based local justice: the jurisdiction, trained and diverse adjudicating panel, enforceable settlement, graded supervision, data-driven government, and ethical ODR. The model is flexible: it can be applied to federal or unitary system, plural legal order and different degrees of digital readiness. What now remains is the task of institution-building - of harmonizing law on the books with law in action by pilots led by coalitions, assessments that are both transparent and persistent, and gradual scaling up. When done with modesty and discipline, decentralization has a potential of changing justice into a living civic practice that is based on the community and dignity.

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