A Symptomatic Relationship

Courts and ADR:

When ADR procedures are designed to substitute for traditional court processes, they do so at the risk of becoming a substitute for the values that courts are intended to fulfill. This substitution can lead to a compromise of the integrity and effectiveness of the legal system. The failure to recognize the fundamental role of courts in society, and the need to preserve the integrity of these institutions, can result in a loss of confidence in the legal system.

In many cases, ADR procedures are introduced as a means to reduce the backlog of cases, to improve access to justice, or to enhance the efficiency of the legal system. However, these goals can be achieved at the expense of other important considerations, such as the quality of justice, the preservation of legal standards, and the protection of individual rights.

Therefore, it is crucial to ensure that ADR procedures are designed and implemented with a clear understanding of their potential impact on the values and functions of the court system. This involves recognizing the unique role of courts in society, and the need to preserve the integrity of these institutions.

A prime example of this is the use of ADR procedures in family law. In many jurisdictions, ADR procedures are used to resolve disputes related to custody, child support, and other issues. However, the use of ADR in these contexts can lead to a loss of the traditional role of courts in providing a public forum for the resolution of disputes, and in ensuring the protection of children's rights.

Moreover, the use of ADR in family law can have significant long-term consequences for the children involved. It can lead to a lack of accountability, and a failure to ensure that the best interests of the child are protected.

In conclusion, the use of ADR procedures in court processes requires a careful consideration of their potential impact on the values and functions of the court system. It is essential to ensure that these procedures are designed and implemented in a manner that preserves the integrity and effectiveness of the legal system, and that respects the fundamental role of courts in society.