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Comparative Analysis of the Significance of Alternative Dispute Resolution and Court or Tribunal for Civil Cases

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Abstract

Aim, Objectives and Scope of the Investigation- A comparative analysis of the significance of the ADR and court or tribunal for civil cases is the prime research aim of this dissertation. The objectives of this dissertation mainly included a critical and comparative review of the civil cases settlement in the ADR and court or tribunal. It also examines the significance of the ADR in civil cases settlement and the significance of the court or tribunal process in a civil case based on benefits (pros) and costs (cons). Lastly, it determines reasons for preferring the ADR over litigation for civil cases. This dissertation has a broader scope of the investigation as the existing studies have not widely presented the significance of the ADR specific to the civil cases in contrast to the court proceedings. Therefore, a good scope has remained for the empirical data search in this direction.

Method and Methodology- Interview and desktop or library research methods were used for gathering qualitative data to cover thorough knowledge of the ADR and litigation or judicial proceedings. The chosen method contributes to collecting multiple and different views to conclude the effectiveness of the ADR based on the multiple realities. The interview met the demand for empirical data, and library research provided theoretical data. Within qualitative research, interpretivism, inductive, mixed exploratory and explanatory designs were applied for the detailed subjective knowledge about the ADR and court procedure for the civil cases.

Summarise the Results- Thematic analysis has indicated that the application of the ADR for civil cases in contrast to the court or tribunal is more significant. It is so because of more pros over cons, such as time and cost efficiency, lesser complications and parities satisfaction, and relationship improvement within ADR. This cannot be indicated relevance of the litigation than the ADR is lost in the present time due to significance of the standard laws and legal experts' involvement.

Principal Conclusions- The court has also allowed acceptance of the ADR dispute solution to deal with the issue of delayed and complex procedures in the court proceedings and increased pending civil dispute cases. Additionally, people trust in the legal advice of the arbitrator or mediator is relatively higher or good even though it is informal, bargaining power and suitability of the legal process is the important considerations.

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Introduction

1. Introduction

The following dissertation is focused on the most likely dispute settlement system of the Alternative Dispute Resolution (ADR) that is gaining utmost importance in the present time due to its relative advantages over dispute settlement in the courtroom in a formal manner. ADR is an informal dispute settlement or mechanism that solves disputing issues between parties outside the courtroom (Amelung, Zekoll and Bälz, 2014). In the context of the chosen field of the ADR, the introduction chapter covers good data in the background section and then identification of the research problem. The research outcomes intended to achieve are also clearly reflected using the sub-sections of the research question and aim and objectives. Further sections of this dissertation have covered dissertation scope and limitation, organisational structure and significant contribution of this research work.

2. Background

In the present time, ADR is one of the preferred choices for the dispute settlement with efficiency and thus, courts are also commenced to incorporate or give value to the ADR in civil and criminal cases (Schneider and Cole, 2021). ADR is defined as a dispute resolution process that is not in formal verdict or resolution. The neutral involvement of the third party in the ADR to help dispute parties reach the best solution is in favour of both parties and needs. Therefore, the entire dispute settlement in the ADR is carried out without any involvement of the judges and lawyer-like in the court or tribunal. Therefore, efficiency is the prime reason for promoting ADR for the dispute settlement, and courts also support the acceptance or implication of the ADR for the civil cases (Legg, 2013; Palihapitiya, Jeghelian and Eisenkraft, 2019).

Mediation has a commonly used dispute settlement procedure in the US courtrooms, and many courts support ADR processes for disputes due to ease (Palihapitiya, Jeghelian and Eisenkraft, 2019). ADR is the negotiable mechanism of dispute settlement that not only gives consideration to the flexibilisation but also integrates formalisation while solving cases with the justified and legitimate solutions (Amelung, Zekoll and Bälz, 2014). The solution of the dispute via ADR over tribunal or court process is the efficient legitimate action. "Access to justice" has been efficiently promoted with the ADR as it is within the horizon of the legal structure that formally abided in the dispute settlement (Palihapitiya, Jeghelian and Eisenkraft, 2019, p. 5). In support of this, it has also been identified that ADR has followed both formalism and

informalism in the dispute settlement. However, it is comparatively less formal than litigation or court processes (Amelung, Zekoll and Bälz, 2014). In the present era, "mediation, early neutral evaluation, arbitration, and other mechanisms" are specialised in several dispute settlement strategies useful for conflict resolution with quickness and efficiency (Palihapitiya, Jeghelian and Eisenkraft, 2019, p. 5).

However, ADR has considerable advantages, such as cost-effectiveness, fast or quick resolution of the dispute, balance approach, confidentiality and convenience. For example, the procedure in the court or tribunal for civil cases has incurred huge costs, including a lawyer or legal team fees, legal file or documentation costs and costs related to the other paperwork; whereas, in the ADR, costs incurred in this process is comparatively lesser (Roberts and Palmer, 2005). Besides this, ADR does not involve lengthy procedures and complex paperwork that make it informal, but it leads to quick dispute resolution based on the suitability of the parties. Moreover, the involvement of the third party and his/her assistance outside the courtroom delimits the court process and prevents long-term legal proceedings (Legg, 2013).

Besides these expected benefits, ADR acceptance yields various other benefits to the parties in the short term, such as positive behaviour and attitude, a sense of responsibility and empowerment, trust in arbitrators and ADR strategies and parties' relationships to a reasonable extent. In specific to the civil cases, ADR implication has proved efficient or beneficial for the parties involved in the dispute, such as time and resources saving, satisfaction, fair solution, and relationship. The dispute settlement via ADR enhances judicial or court efficiency by aiding in managing dispute settlement (Charkoudian, Eisenberg and Walter, 2017). The significance of ADR is not limited to the parties' satisfaction by aiding in getting the best and fair solution. However, to a reasonable extent, dispute settlement contributes to minimising increased civil cases burden on the civil or judicial system.

3. Research Problem

As per the background information, ADR has significant benefits to the parties and courts or the judicial system. Dispute settlement via involvement of the third party allows flexibility, manages costs and efficient decision–making, and various other benefits in the short and long term context (Charkoudian, Eisenberg and Walter, 2017). However, the informal legal process of the ADR is a big issue that can affect the legitimacy of the final settlements. Parties are satisfied with the ADR at the time of the process. However, there may also be the possibility of further

proceedings in the court due to disagreement with the arbitrator's solution (Amelung, Zekoll and Bälz, 2014). Based on legitimacy and trust, the ADR conflict resolution can be less worthy or practical and criticised for effectiveness. Although many courts have accepted the ADR for the conflict resolution because it supports managing civil cases burden and also leads to attaining higher rates of conflict settlement, yet risks or costs of this mechanism is also the critical issue of concern in relation to its application or acceptance in the form lawful process (Palihapitiya, Jeghelian and Eisenkraft, 2019). The ADR is the combination of formal and informal dispute settlement that can be criticised for its effectiveness in relation to legal aspects. For this concern, a comparative evaluation of the effectiveness of ADR leads to reaching conclusive findings. The benefits of the ADR contribute to its significant implication in the present time, but it is probed on equality and fairness in the dispute settlement. In contrast to the court or tribunal's pros and cons in the settlement of the civil case, the pros and cons of the ADR are studied as the research problem in this dissertation. Thus, a comparative study of the significance of ADR in court settlement in civil cases has been conducted to reveal its implications in legal terms.

4. Research Intend to Achieve

Research Question (RQ)

As stated in the above section of the research problem, the long and delayed procedure of civil cases has stimulated the significance of ADR in the dispute settlement that reduced the burden of the increased cases. However, it has not been widely accepted and preferred by the parties. Therefore, in relation to the significance of ADR, this research study searches for an answer to the main research question and sub-questions.

Main RQ- How and to what extent is ADR, in contrast to the court or tribunal for civil cases, more significant for the settlement of the civil case?

Sub-Questions

1. What is the purpose of ADR establishment and its methods for civil case settlement?
2. What is the difference between ADR and court or tribunal in settlement of civil cases?
3. What are the pros and cons of ADR than that of the role of court or tribunal in civil cases?
4. What is the impact of ADR establishment on the efficiency of the court or tribunal settlement in civil cases, and what benefits the parties?

Aim and Objectives

This dissertation is specific to the research title. The problem is to conduct a comparative analysis of the significance of the ADR and court or tribunal for civil cases. It demonstrates the implication of the ADR for civil cases along with the implication of court or tribunal for civil cases in relation to the process efficiency of dispute settlement. It reveals the effectiveness of the ADR or court or tribunal in civil cases or vice versa in relation to the complications, time and cost-saving. The following objectives help in covering the research aim in the dissertation.

- To conduct a critical and comparative review of the civil cases settlement in the ADR and court or tribunal.
- To examine the significance of the ADR in civil cases settlement based on benefits (pros) and costs (cons).
- To examine the significance of the court or tribunal process in a civil case based on benefits (pros) and costs (cons).
- To determine reasons for preferring the ADR in civil cases more in contrast to the court or tribunal.

5. Dissertation Roadmap

The background information in the introduction section covered the research context, purposes, question, aim and objectives; the brief of the further research chapters is organised as below.

Chapter 1: Literature Review – This chapter will examine and review scholarly journals, books and some relevant online reports to determine the significance of ADR than a tribunal. This chapter covers background information about the ADR, the reason behind its establishment, the benefits or significance of ADR, and the difference between ADR and tribunal in civil cases.

Chapter 2: Research Methodology and Methods- This chapter will depict different methodological and methods alternatives, selecting the best one for the data collection, and advantages and disadvantages in the alignment of the research purpose. Overall, this chapter will cover overall details of the research strategy and justification based on the literature review support.

Chapter 3: Presentation of Data- Data collection specific to the ADRs will be orderly and logically presented in this chapter.

Chapter 4: Data Analysis and Finding – This chapter will descriptively present data findings and analysis that mainly address the research aim, objectives and questions. Data analysis and findings will exclusively answer the research question comparative significance of ADR relative to the court or tribunal in civil cases.

Chapter 5: Discussion- This chapter will present theoretical and empirical perspectives together in a structured and concise form. The discussion will cover objectives based on the critical discussion findings using theories, models, and supportive literature evidence.

Chapter 6: Conclusion- This chapter will explore key conclusions addressing the research aim and objectives in association with the discussed findings. This chapter will also reveal and present the significance and implications of the findings thoughtfully.

6. Scope and Limitations of the Research

Scope of the Research

This dissertation has narrowed scope due to its intentional focus on the specific area of dispute settlement, that is, ADR, to compare with the court or tribunal in civil cases. It specifically focuses on the significance of ADR than that court or tribunal to gain insight into reasons for ADR preference or acceptance and increased popularity of the ADR over the court or tribunal. A study about the significance of ADR in this dissertation would have added to explore relative advantages of this dispute settlement over the tribunal, including cost and time efficiency, flexibility, and quick or efficient dispute resolution. In a similar context, this dissertation is also included the costs or pros of the ADR to critique its significance than tribunal in civil cases. Overall, this research is included the ADR for the civil cases only to do a comparative study with the tribunal. The number of civil cases has been increasing year on year. It eventually increases the burden of the cause or outcome of the complex and time-consuming dispute settlement process; thus, investigating the significance of the ADR would be valuable contributing research to knowing about its benefits. The other dispute settlement options are not included in this dissertation to conduct wide-ranging research in the particular direction. Broader research could be good for knowledge enhancement, but it weakens the scope of exploring the research subject in an in-depth manner. Altogether, wide-ranging data about ADR and its essential components that help solve disputes more efficiently than settlement in the court indicate the effectiveness of the ADR mechanism.

Limitations of the Research

- This study would have planned to process qualitative data collection, which is underlined as a potential research limitation in context of collecting statistical results and large sample views. Ample secondary and qualitative data collection is feasible through secondary and interview method and access of the good knowledge about significance of ADR, which is useful for conducting a comparative study in relation to the dispute settlement. Still, large sample views and experiences of the dispute settlement parties would facilitate exploring quantitative data based on knowledge and understanding for the hypothesis testing.
- Research setting, such as a developed or developing nation's legal or tribunal system, is not undertaken in this dissertation to maintain generalisability. It is another potential limitation as the selection of research setting could have reflected different comparative results about the significance of ADR, particularly the socio-cultural effect. The efficient work processes directly influence the effectiveness of this dispute mechanism or system at the tribunal or court in civil cases settlement. The specific research setting selection would aid in revealing problems or challenges in the ADR promotion. Thus, it is essential to be focused on these limiting areas in future research.

7. Major Contributions of the Study

The significant contribution of this study is the critical knowledge about the ADR and tribunal dispute settlement system or mechanism for solving civil cases efficiently. The research aim or question addresses how the ADR, in contrast to the court settlement, is more effective in civil cases. This dissertation is helpful for the potential parties in taking decisions related to the preference of the ADR or court for the dispute settlement on the basis of fundamental reasons or factors. This study would be helpful for the legal experts and firms to know about the increased preference or popularity of the ADR to assess opportunities and threats of the ADR. The objective pros and cons of the ADR versus court settlement can be gained from this dissertation. This dissertation would not only be a good information source for the actual practitioners in the civil cases, but coverage of the rigorous data about ADR, including its history, purpose, work processes, significance or importance in the contemporary time, would also be knowledge enhancing for the academicians or law students. The research question and objective of the ADRs as per the perceived choice and evaluation of the impact of ADR establishment is also a significant contribution of this work as the learning would be used for the disputing parties to justify the selection of the ADR.

8. Summary

It has been summarised that a number of pending and increased civil cases and slow and complex court or tribunal procedure of the dispute settlement has been stimulating demand for the third party intervention or ADR, is a more informal dispute settlement procedure. However, the risks or cons of the ADR have been criticised for its effectiveness. Although courts favour the ADR to manage civil cases' settlement rates, the formal legal procedure is relatively more needed in the dispute settlement to avoid repercussions. In this context, this research conducts a comparative study of the significance of both ADR and court settlement in civil cases.

Chapter 1: Review of the Literature Review

1.1 Introduction

In the following literature review, the aim is to evaluate the concept and Significance of Alternative Dispute Resolution, ADR is frequently used to resolve conflicts that have the potential to lead to litigation. Workplace disputes, personal injury claims, and divorce proceedings are all examples of such difficulties. Unlike traditional litigation, ADR approaches are frequently collaborative, allowing the parties to comprehend each other's viewpoints (Browne and Sime, 2016). Hiring one of the most well-known dispute resolution major organizations can be a good investment because ADR is both time and cost-effective. All ADR methods are similar in that they allow parties to find admissible settlements to their problems outside of traditional justice/court proceedings, but they are governed by different rules. In addition, the literature review also aims to assess the advantages as well as legal cases of ADR; the legal system is already overwhelmed. It is difficult to hold a hearing for each complaint that is filed. As a result, it can take many years to bring a legal case to trial. One of the benefits of ADR is how quickly it settles disputes. A compromise and an arbitration award may be achieved within weeks or months of filing a case. Another key advantage of alternative conflict resolution is that it is often far less expensive than going to court (Van Aeken, 2012). The ADR method is more adaptable. Unlike a trial date, which can vary due to backlog, an ADR can be scheduled at any time. This not only provides additional freedom, but it also aids in the resolution of the disagreement. The majority of court trials are open to the public and can be viewed by anyone. ADR, on the other hand, is completely anonymous and private. When an arbitration clause is issued, or even when both parties reach an agreeable agreement through mediation, there is no public record of what happened during the session. Also, the literature review aims at highlighting the significance of ADR, mediation has now become the primary form of Alternative Dispute Resolution in Ireland and many other jurisdictions (ADR). It's best defined as "a technique in which an unbiased and objective third party facilitates discussion and negotiations, as well as voluntary decision-making by both parties to a disagreement, in order to assist them in achieving a mutually acceptable conclusion." Mediation is voluntary, and neither the parties nor the mediator may force them to reach an agreement. Lastly, the literature also evaluates the findings of previous researchers concerning the subject of ADR and its significance.

1.2 Concept and Significance of Alternative Dispute Resolution

According to Blake, Browne and Sime (2016) Alternative Dispute Resolution (ADR) refers to the process of addressing and resolving issues outside the courtroom. ADR, in more technical terms, refers to the methods for resolving disagreements without resorting to litigation. Negotiations, arbitration, as well as mediators are examples of these methods. ADR procedures are often more efficient and cost-effective. In fact, ADR is frequently employed in disagreements that have the potential to contribute to litigation. Labor conflicts, personal injury allegations, as well as divorce proceedings are examples of such issues. ADR methods, unlike traditional litigation, are often collaborative, allowing the parties to understand each other's perspectives. ADR also allows the parties to examine and propose creative ideas, which a traditional courtroom would not allow.

Similarly, according to Ramsbotham, Miall and Woodhouse (2011) mediation is a type of ADR that involves the involvement of a neutral third party called a mediator. The mediation does not have the authority to decide on a dispute's resolution or to persuade the disputing parties to agree on it. Working with the opposing parties, the mediator attempts to reach a mutually acceptable settlement, which would be usually non-binding. If appropriate, the courts can order mediation, however, the entire process is voluntary, giving the disputing parties the option to reject the settlement. Mediation is completely confidential, as well as the parties have complete power over the government. If the contesting parties do not reach an agreement following mediation, they can move to court. However, as per Xatamjonova and Bahodir (2021), sometimes the parties do not want mediators intervening or resolving their disagreements. Similarly, the scope of this system is confined to civil issues, wherein certain cases based on cultural myths, agreements and common grounds have a very low probability of being addressed or resolved, eventually increasing the expense of the procedure. However, the major criticism that is associated with this ARB method entails the undermining neutrality of the mediator. In other words, the mediator must be impartial or neutral in order for the parties to reach their own agreements; thus, their autonomy needs to be considered and protected.

In a similar context, according to Deutsch, Coleman and Marcus (2011) arbitration is a type of alternative dispute resolution that resembles a non-formal prosecution as well as involves the employment of an impartial third party. After hearing both sides, the appointed third person makes a decision. This judgment is either non-binding as well as binding, depending on the

agreement reached by the contesting parties. This judgment is regarded as final and it can be enforced by law if it is binding. The procedure of arbitration is not regarded as formal because certain evidentiary norms do not be applicable here, regardless of whether the arbiter is a licensed mediator. Negotiation, like ADR, does not employ an impartial third party to help conflicting parties in reaching an agreement. The parties collaborate and strike an agreement. The conflicting parties can have their attorneys represent them during discussions. However, as per Fernandez (2019), arbitration also shares some implications, which sometimes become the main reasons for its limited usage. In some cases, companies who seek arbitration through third-party entities have been known to suffer greater costs. For instance, in the case of Chevron (an energy industry company) ADR related mediation of a single issue cost the company around $25,000, whereas if the company preferred mediation via outside counsel, it could cost up to $7,00,000 likewise $2.5 million if the same happened through legal channels (court) over a 3-5 year period ultimately making the process more expensive as well as great time-consuming.

In such circumstances, parties who seek to avoid long trials opt for a more structured solution, namely mini-trials, which is a commonly adopted technique of ADR, wherein parties agree to avoid longer trials through mutual consent. In this context, Wallensteen (2015), also stated that mini-trial is an alternative dispute resolution technique that is more of a mediation procedure than a standard trial. Every one of the parties in dispute delivers its argument in its entirety. The spokespeople of the entities attempt to resolve the problem again when the process is completed. If they fail to do just that, a non-binding decision is made by an impartial advisor. Summary A jury trial is a type of alternative dispute resolution that is similar to a mini-trial. In an SJT, however, the case is presented to an impartial mock jury, which makes an advisory judgment. After hearing the verdict, the court usually urges the parties involved to try to come to an agreement before pursuing legal action.

According to Rumelili (2015) med-Arb is a type of ADR in which an arbiter acts as a neutral mediator at first, but then produces an enforceable agreement if the mediating fails. In general, Med-Arb is a combination of mediation or arbitration, with the benefits of both. It is strongly advised that disagreeing parties use the ADR process prior to actually resorting to formal litigation. ADR would be both time and cost-effective, therefore hiring one of the most well-known dispute settlement large companies can be a wise investment. All ADR procedures have similar qualities in that they allow parties voluntarily find admissible resolutions to their disputes outside

of conventional justice / judicial proceedings, but they are governed by various standards. Although similar to the method of arbitration, this method has also been criticised for including the impartiality factor in administering a facilitative mediation. For instance, if the intermediary is simultaneously the arbitrator of the case as well, a party could become hesitant to communicate its stance openly with the mediator since the arbitrator may give a final judgement against that party's interests based on those earlier mediation conversations. Thus, Roche (2022) stated that in order to establish med-arb as an effective intervention which is less prone to be contested by a disgruntled party, it is crucial for the parties to attempt to achieve an agreement on issues like the exact mediations format and the confidential or privileged status of materials disclosed during the arbitration (Finn, 2021).

In a similar context, Fry, Bj and Bjorkqvist (2013) highlight that ADR programs can be used by Irish customers to resolve disputes with traders in other EU countries. ADR allows disputing parties to hash out their differences with the assistance of a trained third party. Going to court is often significantly more expensive. When used properly, ADR could save a huge amount of time by continuing to allow negotiated settlement in weeks or even months rather than years throughout court; it could save a great deal of money by avoiding legal fees as well as lost work time, and it tends to put the stakeholders in control (rather than their lawyers or the court) by enabling them to inform their version of the conversation and also have a role in the outcome decision.

In the viewpoint of Lagana (2020), the Northern Ireland Conflict has long been contextualised throughout history, focussing on its socioeconomic factors (dispute between nationalist/catholic minority). However, there are several charities working in this field to develop and introduce alternate dispute resolutions in northern Ireland, such as Mediation Northern Ireland. Yet, on average, the number of costs annually incurred by parties in such cases exceeds the amounts charged by government authorities. In this relation, in Ireland, there are majorly 4 types of organisations are provides ADR services, namely ombudsman, regulators, professional bodies or trade associations, and commissions and commissioners (Citizens Information, 2022). These organisations provide professional support to those who have been treated unfairly or have been unheard of in the internal complaints process. For instance, taking on the method of ADR, ombudsmen schemes utilises informal methods to settle complaints, including mediation and

conciliation, whereas in other formal cases, it provides rulings, as well as recommendations wherein some cases may be legally binding.

Similarly, according to Hopt and Steffek (2013) when used properly, ADR can focus on the problems that affect the people in dispute rather than just their own legal rights and duties; benefit the people implicated, and come up with adaptable and innovative possibilities by exploring what any of companions wants to accomplish and why; preserve relationships by helping individuals cooperate rather than generating a winner and loser; and produce better results, such as settling rates of up to 85%. Alleviate anxiety from court proceedings by reducing the cost and time; keeping private issues private - unlike the courtroom, where the proceedings are normally on the official information and many others, including the media, can participate, an ADR session is only open to those who have been invited.

In this regard, Sourdin, Li and McNamara (2020) stated that courts are no longer seen as the core of the judicial system in many nations. While it is undeniable that courts play a significant role in protecting rights and upholding the rule of law, the reality is that often those people who are involved in a disagreement settle their issues before going to court and frequently use forms of Online Dispute Resolution (ODR) or ADR. Similarly, in some countries, some processes are mandatory before pursuing the court proceedings. For instance, in China, ADR and ODR are directly linked with the judicial/court system while ceasing to exist externally. O'Leary and McGarry (2016) highlight that ADR allows parties must agree to come to a resolution concerning intellectual property that would be protected in various countries in a single treatment, eliminating the cost and complexity of multi-jurisdictional lawsuits, as well as the danger of uneven results. ADR allows parties to have more influence over how their issue is addressed than the litigation process because of its confidential nature. Contrary to court proceedings, the parties can choose the most suitable decision-makers regarding their case. They can also choose the appropriate law, the venue, as well as the language of the hearings. Increased party autonomy could speed up the process by allowing parties to create much more efficient methods for their disagreement; this could save money on materials.

According to Coleman, Deutsch and Marcus (2014) in court-based litigation, wherein acquaintance with both the applicable legislation as well as local procedures can offer major strategic benefits, ADR can also be impartial to the parties' law, culture, as well as organizational arrangement, eliminating any home-field advantage that each of the parties may enjoy. The ADR

process is confidential. As a result, the parties may promise to hold the procedures as well as any outcomes private. This allows them to focus on the content of the debate instead of how it is perceived by the public, which would be critical when corporate identities, as well as proprietary information, are at issue. Unlike court verdicts, which can usually be challenged in one or even more phases during litigation, arbitration agreements are rarely appealed.

In a similar way, Breen *et al.,* (2016) highlight that of course; there are times when judicial proceedings are preferable to ADR. The consensual structure of ADR, for example, renders it a little less suitable unless one of the two or more parties is particularly recalcitrant, as in the case of an extracontractual violation issue. Furthermore, if a party intends to set a public court framework in order to fully understand its rights, a court ruling will be preferred to an awarding that is restricted to the parties' connection. In any case, potential parties, as well as their advisors, should be informed of their dispute settlement alternatives so that they can select the approach that best suits their circumstances.

1.3 Advantages and legal cases of ADR

According to Van Aeken (2012), the judicial system is overburdened. It is impossible to convene a hearing for every complaint filed. As a result, bringing a judicial case to trial can take many years. One of the advantages of ADR is its speed of settlement. Within weeks or months of initiating a case, a compromise, as well as an arbitration award, may be reached. Another significant benefit of alternative dispute resolution is that it would be typically much less expensive than a trial. Simply going through the process of discovery for a trial can result in an excessive overall cost, which comprises court reporter fees, legal expenses, as well as printing and distribution costs.

In this context, Sourdin, Li and McNamara (2020) described that judicial systems in countries such as Canada encourages peoples to contemplate ADR to avoid unnecessary cost and delays. Moreover, the author also stated that the ADR process induces greater flexibility than typical court proceedings. Their application in the COVID-19 has also been facilitated online to assist parties and people in settling their disagreements. However, there are also several legislations that have been passed in Ireland to address disputes in the major sector of the economy, for instance, the Industrial Relations Act 2015, which was focused on addressing the challenges in union recognition, and the Workforce Relations Act 2015 which was developed specifically to simplify and generalize the dispute resolution system (Maccarrone, Erne and Regan, 2019).

Similarly, Salmi-Tolonen (2011) highlight that more crucially, a lengthy court trial can force jurors, witnesses, as well as the parties concerned to miss work lasting weeks. The procedure is quicker using ADR, because money is precious. The ADR procedure is more flexible. ADR can be set at any moment, unlike with a trial date, which can change due to backlog. This not only offers more flexibility, but it also helps people resolve conflict faster. Court trials are generally open to the public and can also be accessed by anybody. ADR, at the other hand, is both anonymous and confidential. There is no public record of what happened during the session whenever an arbitration clause is issued, or even when both parties reach an acceptable solution through mediation.

In a similar context, highlight that Muigua (2013) all disputes that will go through ADR are presided over by a neutral third party. The impartial third party should have had no ties to any of the parties engaged in the lawsuit and also no stake in the outcome. A judge is not chosen to preside over a court trial. The judge is chosen. Clients can choose a neutral third party with particular subject area experience to help expedite as well as come at a well-informed settlement, which is a significant difference. When a court decision is reached, one party is inevitably unhappy, agitated, angry, and sometimes even bitter. The ADR method makes every effort to keep the two parties' relationship intact.

According to Knigge and Pavillon (2016), there have been a variety of judicial review cases that involve sports governing organizations in Ireland throughout the last decade. Whereas the courts have been open to considering such petitions, it has already been repeatedly stressed that judicial interference in sporting organization decisions should never be taken lightly and should only be used in the most extreme of situations. Sports organizations must submit their disputes to arbitration as well as mediation, according to Irish courts. Just Sport Ireland (JSI), as well as the Gaelic Athletic Association's Disputes Resolution Authority (DRA), are two domestic entities that provide alternative conflict resolution in the sporting environment in Ireland (GAA). Similarly, according to Ahmed (2016) alternative means of conflict settlement are a welcome alternative to the costly and frequently controversial option through judicial review procedures in Ireland. Given the advantages of resolving disputes through the DRA or JSI, and given the Irish courts' general aversion to wanting to get involved in sporting disagreements, it is highly probable that these procedures will become more widely used, particularly now that Sport Ireland (formerly Irish Sports Council (ISC)) has made it a requirement for new governmental bodies to be recognized,

and has also been basically promoting recreational sports governing bodies to include a referral stipulation in their governing body agreements.

According to Gill *et al.,* (2014) mediation and conciliation processes generally provide a quick settlement to a specific conflict, according to research on the efficacy of ADR mechanisms (some based on Irish experience). That research also shows there really is no such thing as an easy dispute resolution procedure, whether it is an alternative or not, when a dispute is resolved through the judiciary or perhaps the Family Mediation Service, the state bears the majority (if not all) of the economic burden. The expense of individual mediation is frequently divided by the parties participating in the dispute settlement system. Similarly, according to Cortés (2010) the Commission recognizes that the increased financial expenses of a specific circumstance that fails to settle after mediation and therefore must be resolved in court must be evaluated against the potential savings in a complicated case that's also satisfactorily mediated. Nonetheless, the Commission believes it is critical not to perceive ADR as a blatantly cheaper option to litigation expenses; it may be in some cases, but if mediation, as well as conciliation, fails, it will inevitably result in increased costs.

1.4 Significance of ADR for Civil Cases

According to Anderson (2010) in Ireland as well as many other jurisdictions, mediation has now become the preferred form of Alternative Dispute Resolution (ADR). It's typically characterized as "a technique wherein a honest and independent third party facilitates conversation as well as agreements, as well as autonomous decision-making through both parties to a disagreement, intended to facilitate people in achieving a mutually satisfactory conclusion." Mediation is optional, as well as the parties cannot be forced to reach an agreement. It is also secret as well as functions without bias, which also stands in stark contrast also with the adversarial character of lawsuits, which breeds complexity as well as rising expenses. Alternative Dispute Resolution is a broad category of "organized mechanisms that operate within one modern Civil Justice System," according to one definition. Its goal is to give tailored judgement to all concerned parties.

Similarly, according to Bridgeman (2010) outside of the United States, Ireland has been the most litigated jurisdiction. This litigation-fuelled culture cannot persist, regarding the magnitude of the country as well as its scarce resources in all of these economically challenging times. The courts have an ethical obligation to investigate other approaches because then they can

no longer offer the basic services that they strive to provide. It is a well-known adage that "justice delayed is justice denied." So each client is entitled to equitable access to the court system, and all successful legal systems depend on a realistic expectation of speedy judicial remedies. The essential duties of honesty, fairness, as well as equality, which are inscribed in the Constitution, underpin every effective practice.

In a similar context, according to Lee (2013) although mediation, as well as conciliation, have been frequently used interchangeably, the Law Reform Commission has stated in its findings on alternative dispute resolution that they have been two separate processes. A third party is chosen, and both sides submit written testimony to the mediator. A mediator somehow does not give advice to the parties; instead, he facilitates the debate. He is unable to provide an opinion or counsel. On a much more evaluative approach, conciliation is employed more often in the Labour Relations Commission construction industry. If the participants are unable to reach an agreement, the conciliator will endeavor to provide his as well as her professional judgment on the greatest feasible conclusion and might even make a non-binding suggestion.

In a similar way, according to Pagano (2018) the Republic of Ireland has changed its domestic ADR framework for promoting any use of ADR through a series of legislative measures culminated throughout the Rules of the Superior Courts (Mediation as well as Conciliation), which went into effect in October 2010. Circuit Court and High Court justices, in an instance, would then be able to defer cases to enable the use of ADR, as well as the High Court, would have the authority to enact financial penalties on litigants that reject as well as refuse to participate in ADR. Existing laws, in effect since 2004, allow the Commercial Court (which hears cases worth at least €1 million) to defer hearings for up to 28 days to allow for mediation, conciliation, as well as arbitration.

Byrne and Heneghan (2011) highlighted that ADR systems can be tailored to achieve a wide range of objectives. Several of these objectives are directly tied to enhancing the administration of justice as well as resolving specific conflicts. Some, on the other hand, are tied to other development goals, such as structural adjustment as well as community management of conflicts as well as disputes. For example, an AID mission's dedication to improving the rule of law may make finding an effective, collaborative means to settle land disputes vital, not just because land conflicts endanger the country's economic and social stability. Similarly, where

judicial inefficiencies or dishonesty obstruct foreign growth and financial restructuring, effective dispute settlement processes may be crucial to economic development goals.

In the same line, Mc Morrow (2012) highlight that ADR programs can also be developed to deal with situations that might otherwise end up in court but could still be addressed more quickly (as well as possibly more satisfactorily) via ADR procedures. ADR programs can help supplement electoral reforms by lowering workloads in certain situations. They could also support court restructuring by offering professional counsel to individuals of marginalized communities about whether about how to use the judicial process, as well as/or dealing with specialized cases that perhaps the courts are not very well to manage or handle because of the conflicts (e.g., complicated trade disputes, labor-management disagreements). Similarly, according to Manchanda and Jain (2021), ADR may not even be capable of overcoming power differentials or underlying conflicts over standards among disputing parties in cases where no solid legal or ethical framework has indeed been established. ADR, on the other hand, maybe the greatest feasible option for violence in instances if there is no recognized legal framework for dispute settlement.

According to O'Brien (2015), ADR programs can help with the mission goal of reforming the judicial system in a variety of ways. The judiciary could use ADR to evaluate as well as illustrate novel processes that could be expanded to or merged with existing judicial proceedings in the future. ADR institutions can be formed as an option inside the legal system, either as a mechanism to manage existing workloads or even as a separate program that can provide conflict resolution regarding disputes or constituencies typically effectively addressed by the courts. ADR programs can provide reduced methods to hasten case determination if the major difficulties only with the judiciary are complicated as well as improper procedures rather than systemic corruption as well as prejudice.

Jaiswal and Mandloi (2020) highlight that Some ADR programs have essentially supplanted or pre-empted courts as the dominant institutions for addressing civil disputes. Specialized ADR programs concentrating on specific sorts of technological as well as complicated conflicts can be more efficient as well as result in better resolutions than courts. Specialized ADR programs for commercial arbitration are now being tested in emerging nations. For certain sorts of disputes, such as regional tensions, public environmental concerns, and marital disagreements, ADR programs may be more successful than that of the courts. Oral depictions can be incorporated into ADR programs. Traditional communal pressure from society can be used to maintain oral

commitments, reducing any need for the documented record as well as recognition and enforcement methods.

Similarly, Sammon (2017) highlight that one of several benefits of ADR programs is that they can be set up at a minimal price to local areas. ADR programs can occasionally help give some sense of justice whenever courts are consistently prejudiced against specific people, which including minorities or women. Many additional ADR programs appear to be effective in decreasing the price of dispute settlement as well as enabling impoverished people to access justice. Most programs run on a shoestring budget, perhaps because they have been run entirely by individuals as well as because they are funded by governmental or donor monies. Local leaders' improved skills and expertise are frequently felt as a result of ADR programs' influence on public transformation.

In the same line, Akhtar (2019) highlights that ADR programs, as with most capacity-building projects, take quite a long time to have a major influence on organizational abilities, civic participation ethics, as well as community problem-solving procedures. Personal disagreements, as well as the amount of social stress and underlying conflict, maybe addressed via ADR methods. These programs have a different focus than most programs for rule of law projects. ADR findings are kept confidential and therefore are rarely made public. Similarly, according to Block (2016) ADR programs can work well to help solve fairly insignificant, regular, as well as local disagreements for which fairness is a large part of equality and about which culturally relevant norms could be more suitable than nationwide legal standards, as long as several judicial mechanisms exist to describe, formalize, as well as protect the sensible principle of morality. Family disagreements, neighbor disputes, and petty claims are examples of all these types of conflicts.

1.5 Previous research papers concerning the significance of ADR

The article by Sohn and Sonny Bal (2012) aims to highlight that Alternative dispute resolution (ADR) refers to methods for resolving disputes outside of the courts. As the expense of healthcare as well as malpractice continues to climb, there is an increasing interest in medical methods such as early apologies, mediation, and arbitration. In order to find public policy studies, law review articles, case analyses, ADR surveys, as well as healthcare review papers, they used the keywords "medical malpractice," "ADR," as well as "alternative dispute resolution" in MEDLINE, PubMed, and Google Scholar searches in order to find the relevant information

regarding the research as well as this was the method the research was conducted in. The findings of the research highlight that early apology, as well as disclosure programmes, have shown a 50 percent to 67 percent success rate in preventing litigation and significant cost savings per claim. Mediation has a 75% to 90% success rate in avoiding litigation, a $50,000 cost savings per claim, and a 90% overall satisfaction both between plaintiffs as well as defendants. Arbitration is thought to be less gratifying and efficient than mediation, yet it is still faster and less expensive than litigation. Recent court decisions supporting pre-treatment arbitration clauses have improved the legal climate for ADR. ADR has the ability to improve the current legal system by lowering costs and boosting happiness for both parties.

According to the article by Hann, Nash and Heery (2019), Alternative dispute resolution (ADR) is progressively being seen as a better means to resolve workplace disagreement. Much of this same empirical literature focuses on the spread of ADR amongst US organizations with little evidence of such approaches having crossed the Atlantic. This article includes new survey data that as a research method explores the degree to which ADR is often used by Welsh businesses in the UK to mediate various types of conflict. The considerations that impact on the diffusion of ADR are also analyzed. In contrast to previous research, the report reveals that ADR is rather common throughout Welsh businesses, regardless of how broadly ADR is characterized. More private types of ADR are favorably connected with the existence of institutional actors which include expert HR managers as well as recognized labor unions.

The article by Creutzfeldt (2015) gives an overview of the topic of consumer alternative dispute resolution in Europe. Alternative dispute resolution involving consumer disputes is a completely different environment that has already been quietly evolving and is only now gaining traction as a result of new European legislation. This article forces national governments to reconsider their existing consumer ADR mechanisms, and in certain circumstances, to modernise or build ones entirely. Many member states may experience difficulties in reforming their existing systems as a result of the guidelines' application. Consumer ADR has been around for decades in particular regions of Europe, and that has only lately gained traction in European dispute resolution legislation. When correctly designed and deployed, customer ADR has the potential to alter current dispute resolution as well as regulatory processes, resulting in a unique and effective European approach. The core outcomes of the 'Oxford study 2012’1 as well as related publications on customer dispute resolution in Europe is introduced in this report. Recent EU regulation mandates

that each member country have a customer ADR body for all consumer disputes, with the goal of establishing an EU-wide structure for consumer dispute resolution systems by 2015 as well as an ODR platform by 2016.

According to the article by Ntuli (2018), the aim was to highlight how many African countries have promoted Alternative Dispute Resolution (ADR) in the form of mediation, negotiation, as well as arbitration in order to alleviate poor access to the courts. ADR is popularised as well as promoted by utilizing "international best practices and standards" produced in nations such as the United States, Australia, as well as the United Kingdom. However, a closer look at a few of the issues with access to the courts in Africa that ADR is trying to address reveals, among several other objects, that using international procedures, fundamentals, as well as languages in formal justice systems alienates many people and contributes to the creation of a real barrier to justice accessibility. The goal of this article, which takes a comparative approach, is to emphasize that, while ADR may have valuable components for improving access to the courts in Africa, it cannot be regarded as well as promoted as a new concept in advanced economies. As a result, imperialistic views are perpetuated, and huge numbers of people are disempowered by rejecting their cultural traditions, as well as centuries-old systems, which are invalidated.

1.6 Literature Gap

As per the above, various authors have been manifested in projecting their viewpoints regarding evaluating the significance and concept of ADR in Ireland. In the process of extracting the information about the legal cases that have been solved with the help of ADR as a mediator, it can be seen that there is less exploration of the cases that have been solved using ADR as well as how ADR played a significant role in solving the disputes of various participants. Thus, it can be said as the prominent gap noticed in the research. Hence, this research aims at addressing and bridging the gap and providing the relevant information in the alignment of the cases solved. In addition, this research is also aimed at creating the foundation for future researchers that are aiming at exploring similar dimensions.

1.7 Summary

Concluding as per the above findings it can be manifested that, the mediator has no authority to decide on a dispute's resolution or persuade opposing parties to agree on it. The mediator strives to establish a mutually acceptable compromise with the opposing parties, which is usually non-binding. The courts can require mediation if it is appropriate, but the entire

procedure is optional, providing the disputing parties the choice to reject the solution. The parties have entire control over the government, and the mediation is completely confidential. If the disputing parties are unable to achieve an agreement through mediation, they may proceed to court. Regardless of whether the arbiter is a licensed mediator, the arbitration procedure is not considered official because certain evidence rules do not apply. Negotiation, like ADR, does not involve the use of a neutral third party to assist disputing parties in reaching an agreement. The parties work together to reach an agreement. During negotiations, the disputing parties can have their attorneys represent them. When the process is finished, the entities' representatives try to fix the problem again. If they fail to do so, an impartial advisor makes a non-binding conclusion. A jury trial, comparable to a mini-trial, is a sort of alternative conflict resolution. A neutral third party will preside over all conflicts that will be resolved through ADR. The neutral third party should have had no ties to the litigants and no stake in the outcome. A judge is not selected to preside over a court proceeding. The judge is selected. Clients can hire a neutral third party with specific subject-matter expertise to help speed and reach a well-informed settlement, which is a big distinction. When a court ruling is obtained, one party is bound to be dissatisfied, anxious, angry, and even bitter. The ADR approach takes every effort to preserve the relationship between the two parties. Through a series of legislative initiatives culminating in the Rules of the Superior Courts (Mediation and Conciliation), which went into effect in October 2010, the Republic of Ireland altered its domestic ADR framework to promote any use of ADR. Circuit Court and High Court justices would be empowered to defer cases to allow for the use of ADR, and the High Court would have the power to impose financial penalties on litigants who reject or refuse to participate in ADR. Since 2004, existing regulations have allowed the Commercial Court (which handles cases worth at least €1 million) to postpone proceedings for up to 28 days to allow for mediation, conciliation, and arbitration.

Chapter 2: Research Methodology and Methods

2.1 Introduction

The research methodology and method chapter in the dissertation is reflected assumptions and justifications taken in relation to the specific research strategy and design that has been applied for data collection and analysis. The selection of the methodology and method is taken in the direction of the research problem and applied research choice. This dissertation focuses on addressing the research problem of the comparative significance of ADR over court or tribunal in the civil case to determine its legitimacy or access to justice based on qualitative research choice. Qualitative research selection facilitates assessing ADR significance in the context of the broader areas in contrast to the court or tribunal case settlement in the broader dimensions. Thus, this chapter covers various headings and sub-headings in the same relation, including philosophy, approach, design, research strategy, data collection method, sample size and sampling, ethical considerations, and limitations.

2.2 Research Methodology

2.1 Research Philosophy

Data collection and analysis in the context of a particular research issue are based on the belief or assumption of a researcher that directs the decision of preferring a particular research approach, design and method (Wilson, 2021). Under the research investigation, philosophy directs the selection of the objective or subjective or both types of data to cover the research aim or questions. Adopting an appropriate philosophical choice is importantly required: positivism, interpretivism, and pragmatism. Positivism is focused on evaluating or examining observable or apparent reality based on the quantifiable facts to reveal a broad view of the research problem or generalisations specific to the law or standard values (Saunders, Lewis and Thornhill, 2019). However, interpretivism philosophy is integrated human interpretations and perceptions to know worldwide views based on narratives that are ultimately useful for inferring multiple realities and analysis (Melnikovas, 2018). The choice of pragmatism considers multiple or mixed approaches involving measurable facts and narratives/interpretations about the particular problem or area of investigation (Saunders, 2016).

In this dissertation, interpretivism philosophy is the selected choice to identify ADR's significance for civil cases because it helps in integrating multiple realities, experiences, interpretations and perceptions of the people (Thanh and Thanh, 2015). Interpretivism facilitates

in-depth investigation by integrating different perceptions and experiences of the small sample for subjective data analysis and meaningful understanding (Saunders, Lewis and Thornhill, 2019). Hence, a comparative analysis of the significance of the ADR and court in this dissertation is conducted by integrating different experiences and perceptions of the concerned target sample (lawyers and dispute parties). Besides this, the advantage or scope of data interpretation in the interpretivism philosophy is the prime factor or reason for its selection as it has involved different perspectives (Thanh and Thanh, 2015; Saunders, 2016). In this dissertation, the significance of the dispute settlement processes has been analysed based on the interpretation of various factors that led to the increased popularity of ADR in the contemporary time, such as cost, time, benefits to the court and dispute parties, and complex procedure.

Within this philosophy, discussion on the considerable knowledge and actualities is possible because of the accessible collection of the diversifying views for the subjective data, which justifies the appropriateness of the chosen philosophy for the dissertation purpose (Pham, 2018). Therefore, qualitative is the preferred data collection or choice for this dissertation. Likewise, interpretivism is also connected with this methodological choice, and therefore, its selection is the perfect fit for this study. The rejection of the other alternatives in this dissertation is due to the non-suitability of the philosophies for qualitative research; positivism supports quantitative research and pragmatism (Saunders, 2016).

2.2 Research Approach

The research approach is another component of the methodology that indicates the direction and purpose of data collection, such as specific findings based on generalisable data to meet the purpose of theory testing or generalisable findings based on specific data for the theory development (Edmonds and Kennedy, 2016). A target of the research study design for testing or building a theory is directed selection of the research approach. Thus, explicit or implicit knowledge is achieved using the right option of the research approach. As per the research problem and intended purpose, research approach selection can be made from deductive, inductive and abductive options. Deductive applies in the quantitative research, inductive in the qualitative research and adductive in the mixed research. The flow of data collection in these approaches leads to infer conclusions based on the premises that are being true (deductive) or judged (inductive) (Saunders, 2016).

In this dissertation, the phenomenon of ADR in settlement of the civil cases is explored by gathering specific data. Therefore, the inductive approach is the preference of choice over other approaches. In the inductive, generalisable conclusion, the inference is based on general or specific premises that assist in developing a better understanding of the research phenomenon and explanation as a whole (Wilson, 2021). Data generalising in the inductive approach flows from specific/detailed data (such as the popularity of the ADR in the civil cases and pros and cons associated with the ADR or court civil cases settlement) to the abstract conclusion (such as the good significant role of ADR in civil cases than long term and costly court hearings or vice versa). Altogether, in this dissertation, inductive inference about the relative significance of ADR in civil dispute settlement is preferred to court or tribunal in facilitating to reveal a valid conclusion if the ADR acceptance is favourable or constructive for the courts and parties' interests as a whole. Besides this, various other reasons also justified the preference for the inductive approach in this dissertation. For instance, it involves a specific research context aligned with the research purpose, data flexibility, and new theory generation to reveal data patterns (Pajo, 2017). Moreover, selecting the inductive approach is also essential because it facilitates gathering subjective data within the chosen philosophical choice.

2.3 Research Design

Research design selection is also essential for data collection strategy and organisation that can be descriptive, exploratory and explanatory. The descriptive design organises research studies to collect and analyse descriptive statistics, theories, and concepts because it aligns with qualitative and quantitative (Creswell and Clark, 2017). The exploratory design application is considered in the studies where the broader scope has remained for the data search. Explanatory design is focused on inferring research aspects or components to find reasons associated with the existing trend (Wilson, 2021). A combination of the two designs, named exploratory and explanatory, are followed to address the research problem. Several reasons have supported the selection of the experimental design, such as little is known about the research problem or scope of the argument. Also, it accompanies by the qualitative and inductive approach (Edmonds and Kennedy, 2016).

Experimental results are based on comparative or analysis between chosen cases (Wilson, 2014). In this dissertation, exploratory led to comparing ADR and court hearings in the civil cases to reveal its worthiness and applicability. Existing studies have revealed extensive popularity of the ADR along with courts' acceptance and benefits of such arbitration for the dispute settlement.

However, the significance of the ADR in relation to the positive and negative sides has remained for argument. Experimental philosophy helps explore and present the research problem's general context, contributing to in-depth subject insights. However, explanatory design is also a perfect selection to analyse reasons for the same trend, such as why ADR is gaining prominence in the contemporary period and the basis associated with its acceptance. Therefore, the experimental design was conducted at the preliminary stage of this research study, followed by the explanatory research (Creswell and Clark, 2017).

2.3 Research Method

After selecting and presenting the methodological choices, the research method is the next stage of this chapter which details the research strategy for data collection, instrument, and target sample. Data findings and analysis, particularly of the above-defined belief of subjective data and abstract conclusion based on an inductive approach, are influenced by the selection of the research method that further leads to exploration and explanation of the collected data.

2.3.1 Research Strategy

In this dissertation, the research strategy is planned toward gathering qualitative evidence or data with the help of primary and secondary research. It has been planned to explore legal-based theories and already collected data about ADR within the secondary research, along with new data in the form of experiences and perceptions of lawyers within the primary research for the realistic data collection. The secondary method helps in the conceptual-model design and presents existing facts as the specific evidence supporting the data findings/results for the general conclusion (Largan and Morris, 2019). Secondary data collection has been aided in collecting and presenting groundwork data and gaps for the primary or further research work (Bell, Bryman and Harley, 2018). Under this strategy, secondary data collection has been aided to know about the concept of the ADR, tribunal and civil cases, and the trend of the dispute settlement in the civil cases via strategies of the ADR and court or tribunal hearings.

However, primary research is a valued consideration for people's awareness and experiences of the new or different system usage. Moreover, new knowledge via primary research is also helpful in exploring and presenting perceptions and outlooks of the people in the form of mixed realities (Queirós, Faria and Almeida, 2017). According to Creswell and Creswell (2018), research work involves primary and secondary data is helpful to present a broad spectrum of the research problem and clear understanding. Altogether, the chosen research strategy of primary and

secondary data is aided in demonstrating different contexts of the qualitative nature along with quantitative data revealed in the secondary studies.

2.3.2 Research Instrument or Data Collection Method

In the above-defined research strategy for qualitative research, various choices of the research instrument or data collection methods are available, including focus group, interview, case study analysis, desktop or library and document review (Bell, Bryman and Harley, 2019). Selecting the suitable methods from these qualitative data collection alternatives helps manage thoroughgoing and in-depth data collection (Edmonds and Kennedy, 2016). Therefore, this dissertation chooses interview and desktop or library research methods for the primary and secondary data collection.

Interview Method

The interview method is the perfect selection for this dissertation because it is a generally applied primary qualitative data collection method in the studies, emphasising detailed data accumulation. Similarly, interview in this dissertation has been taken to explore the significance of ADR wholly and comprehensively. The interview not only assisted in doing “face-to-face” and opens conservation with the target respondents but also facilitated illuminating ambiguous issues (Groenland and Dana, 2019). In this qualitative method, the research problem has been investigated flexibly with critical reflection and responses elaboration as an advantage. As a result, it is easier to access and integrate participants' feelings, experiences and beliefs (Edmonds and Kennedy, 2016). On the other hand, direct or open conversation in the interview involves revealing specific data because of bias or preconception risk (Wilson, 2021). Unlike the surveyor's quantitative research, data presentation and interpretation in the interview could reveal biased results in the lack of generalisations supported by standard statistical values, expected test results, or data output (Saunders, 2016). Thus, this study's analysis of the interview results is rationally and descriptively focused on precise data without generalities to avoid the drawback of the partial data. Overall, open-based question conversation in this method has made it feasible to process discourse on the various dimensions or aspects of the ADR to demonstrate its significance in the courts' settlement of civil cases.

Desktop or Library Research Method

The desktop or library research method is a selected method for the mixed or exhaustive data within the secondary research. This method selection is proved helpful in this dissertation to

know the concept of the ADR, different existing strategies of the ADR, its prevalence of the ADR, issue in the ADR and long term future of the ADR in the context of the present and future significance than the court proceedings. The primary or groundwork information of the ADR is critically collected with the chosen method. This method application in this dissertation is not limited to access to qualitative information, such as theories and specific content. However, access to the quantitative data collected in the secondary studies is also possible via this data collection method (Largan and Morris, 2019). The supportive literature data for underpinning primary data results and discussion is also reason for selecting library research in this dissertation and also it is demonstrated valuable for the time, cost and efforts saving.

2.3.3 Target Sample, Sample Size and Sampling Strategy

For this research purpose, the target sample chosen for the interviews is arbitrators or mediators involved in the different ADR practices and lawyers in the courtrooms. They are chosen as the target population because of their knowledge and experience with the process of ADR, along with the reasons, risks and costs linked with it. The chosen target sample also determines the critical considerations needed before the ADR selection for the civil cases over the court proceedings. According to literature and books, small sample size is intended to approach the interview to do a detailed discussion of the research problem. The interview is of around 20-30 minutes. Thus, gathering the extensive sample opinions is the issue in relation to time overrun and obstacles in the discussion process. In particular, of these interview requirements, a sample size of 6 respondents, including ADR practitioners and lawyers, are chosen for the interview purpose or qualitative data collection.

The responses of the defined sample in this dissertation are helpful for the critical analysis of the civil dispute settlement as views of the limited sample allow for an open discussion on every aspect of the research problem. After the target sample identification and sample size determination, selection strategy is also a critical decision that clearly explains the specific sample selection. In this dissertation, the sample size is selected using a non-probability sampling strategy. Purposive sampling is the critical preference in the non-probability sampling over convenience concerning the biased selection issue. Within the chosen sampling, selection criteria are preliminarily defined to make participants' selection decision making purposefully (Pajo, 2017). In this dissertation, practitioners in the ADR and court or tribunal civil cases are the mainly defined criteria for the selection to assess the pros and cons of both dispute settlements for the comparative analysis.

Results validity is extensively affected by the sampling strategy selection. Thus, purposive sampling is the best fit for revealing purposeful and intended selection that contributes to addressing the research questions and objectives. In the sampling process, consideration of the characteristics as the base for the participants' selection avoids the issue of the unjustified selection. Hence, the purposive sampling strategy gives the advantage of managing interviews with a particular sample that assures valid result outcomes (Groenland and Dana, 2019; Wilson, 2021).

2.4 Data Analysis Method

The responses received in a qualitative manner from the ADR specialists and lawyer has been analysed using thematic analysis. Thematic analysis is a convenient method for finding key themes or codes from detailed responses and to reveal data trends and patterns (Wilson, 2021). The detailed and descriptive interview data with different opinions and knowledge are not easier to interpret in lack of the standard scale as in the quantitative method (Vanover, Saldana and Mihas, 2021). Hence, in the qualitative research, thematic analysis method is aided in presenting similar and dissimilar views to infer a general conclusion (Clarke and Braun, 2013). The focus of this analysis is to present repetitive patterns or ideas from the detailed data or transcripts for analysis and interpretation, in particular of the objectives with the literature support (Vanover, Saldana and Mihas, 2021). The sequential procedure has been followed in the thematic analysis that including transcripts formation, data familiarisation, codes, themes searching or formation, review of themes, defining or naming of the main themes and lastly, analysis (Braun and Clarke, 2021). The following themes are derived for the data analysis and findings that are listed below:

- Theme 1: Significance of the ADR in Civil Cases Settlement Based On Benefits (Pros) and Costs (Cons).
- Theme 2: Significance of the Court or Tribunal Process in a Civil Case Based On Benefits (Pros) and Costs (Cons).
- Theme 3: Impact of ADR establishment on the court or tribunal and disputing parties in civil cases.
- Theme 4: Comparative analysis of the significance of ADR and Litigation.

2.5 Ethical Consideration and Limitations

2.5.1 Ethical Considerations

This research study is conducted in the form of a qualitative research with the inclusion of both primary and secondary data collection. In doing the research in a reliable and valid manner,

some ethical considerations are incorporated in this research study. For the same purpose, the research study has firstly ensured to take informed consent of all the participants taking part in the primary data collection process. For gaining their informed consent, they were made aware with the research academic purpose through providing them the cover letter. Their signed letter is gained in order to show their voluntary participation in this research. Furthermore, all the participants are made aware that this research will not harm their personal identity in any manner (Clark-Kazak, 2017). Their identity details are kept anonymous and that data that is given by them is secured in my personal computer which is password protected. The research has also ensured the originality of the data aspects in this research study. This ethical aspect will secure the research study against the issue of plagiarism that is highlighted as the issue of academic misconduct in the research ethical guidelines of the respective university (Tripathi, 2013). The research has also ensured that the selection of the participants in this research is governed through the consideration that there should not be any person who belongs to any of the vulnerable group category such as any minor, refugee, prisoner, criminal, mentally ill person or physically challenged person. In addition to this, in the final stage of the research this has also been ensured that the end results and findings of the study do not violate and harm any interests and beliefs and values of the respondents (Hammersley and Traianou, 2012). Giving value to all these ethical considerations will maintain the scope and significance of this research.

2.5.2 Limitations

This research can be employed mixed data collection strategy, including quantitative survey data from the parties and qualitative interview responses from lawyers practising ADR or ADR practitioners. Views of the parties involved in settlement of civil cases inside or outside of the courtroom or tribunal, along with mediators or layers of views, could lead to revealing comparative significance in a more specific and relevant way. Only qualitative data collection in this project can be a limitation because quantitative data aids in meeting the demand for statistical data and inclusion of the dispute parties' viewpoints to know their experienced views about dispute settlement via ADR and tribunal. According to Creswell and Clark (2017); Leavy (2017), combined or mixed methodology helps overcome the drawback of the qualitative or quantitative research.

2.6 Summary

This dissertation has integrated qualitative data for the comparative analysis of ADR and court in civil cases. Data collection was carried out using the primary and secondary methods, named interview and literature review. Both the chosen data collection methods have been facilitated in the detailed knowledge enhancement about the ADR and court proceedings, and eventually outcomes in terms of the relative significance of the ADR over the court or vice versa. 6 people were interviewed to determine the pros and cons of ADR and court proceedings and end conclude whether the ADR preference or court acceptance of the ADR plays a significant role in civil case settlement. An unbiased sampling procedure has been followed for the sample respondents' selection. Ethical considerations apply for primary and secondary data collection, and presentation has been confirmed to avoid issues against the data validity, credibility, and reliability issues. Common patterns in the interview transcripts are identified using the thematic analysis method, which is going to be presented in the next chapter.

Chapter 3: Presentation of Data

3.1 Introduction

This dissertation chapter exhibited interview responses that were collected from the six respondents, including lawyers and arbitrators (see appendix 2: details of the participants). The written transcripts of the interview responses are presented in this chapter that further interprets and analysis as per the qualitative method of thematic analysis. For the discussion with the participants, a total of four open-ended questions were asked to the respondents (see appendix 1: interview questionnaire). In the following section, the responses of the participants, which were received in the online interview process, are presented below in the quotation form.

3.2 Qualitative Data Presentation- Interview Responses

Interview Question 1- How has the court or tribunal worked in civil cases settlement over the years? How satisfied are you with this litigation?

Respondent A	"*As per my experience of around 10 years or more in this field, the working of court or tribunal in civil cases settlement has been based on the legal standard procedure or the rule of law. The applicable national and international laws are mainly considered for the dispute settlement, indicated as the quality regulations. In terms of formalisation, I am satisfied with this litigation in the civil cases, but the issue of delayed process is the matter of concern that is questioned on its effectiveness*."
Respondent B	*"Yeah! Over the years, court proceedings in civil cases settlement have been following the same mechanism and the standard rule of law without any changes. A judicial proceeding is lesser effective in terms of accessibility, higher legal fees, unnecessary complications and process delays has been worsening extent of satisfaction and trust associated with this litigation.*"
Respondent C	"*Court or tribunal hearings for the dispute settlement in the civil cases have been following traditional practice that inside the courtroom. Lawyers and judges are involved in the discussion about the dispute with evidence and, finally, judgment based on the standard rule of law or sections. All the judgment under the formal procedure has been undertaken on the basis of the evidence. Trust of the disputing parties in the court proceedings is negatively affected because of issues like Partiality and Lack of*

	Transparency, lack of interaction and corruption. I am not fully satisfied with the court proceedings because issues and challenges have been weakening trust in the justice."
Respondent D	"*The rule of law or standard law is the key bases of the court proceedings that followed in the judicial proceedings. I do agree with quality regulations, reliability and precedent in the court or tribunals that cannot completely replace it with the other dispute settlement mechanisms or dispute alternatives. Based on the flaws or cons of this system, level of satisfaction is not much as expected that usually found in the many dispute settlement cases*."
Respondent E	"*Judicial proceedings inside the courtroom are not new that has been following standard or traditional pattern. Cost and time factors led to dissatisfaction along with the issue of less flexibility, control and transparency*."
Respondent F	*"The change in the judicial proceedings has only been experiencing changes only if the existing laws changed or new sections are imposed. A number of various other options are available for the dispute settlement, and thus, complex and length procedure followed in the courtrooms are lost own significance and reason for dissatisfaction."*

Interview Question 2: Do you think the shift from litigation to the ADR is the right move in the contemporary period?

Respondent A	"*Yes, I do think so that shift from litigation to the ADR is the right move in the contemporary period as the ADR establishment brings a solution for the various issues in the court proceedings to the parties."*
Respondent B	"*As per the contemporary requirements, the shift towards alternatives for dispute solution is the right move, but it can be marked as an alternate due to various cons, such as lack of Precedent, quality standards and informal system. I do suggest that the ADR can be chosen over litigation, but its selection is based on your interest or requirements*."

Respondent C	"*Yeah, I agreed with the flaw or cons in the litigation, but the complete shift is not considered the right move in the contemporary period. In the COVID-19 duration, the shift toward the ADR and online settlement can be considerable, but replacement of the litigation is not possible on the legality grounds*."
Respondent D	"*I believed that the shift towards ADR is the right and best move to avoid cost burden and delayed decisions, and various other substantial benefits that disputing parties in a civil case can be enjoyed."*
Respondent E	"Yes*, if this will be adopted in the contemporary system, that would bring good reform in the legal proceedings that beneficial for all the stakeholders*."
Respondent F	"*I am not much sure about this change because litigation is indicated the effectiveness of a country's legal system. The adoption of the ADR in the system is to be preferred as a compliment or support, so that settlement rate of civil cases can be improved*."

Interview Question 3: What is the significance of the ADR establishment in contrast to the court proceedings in civil cases? Please state some pros and cons of the ADR and court or tribunal dispute settlement?

Respondent A	"*Lower cost, faster settlement procedure, transparency, control and transparency are the certain pros of the ADR that are cons of the court or tribunal'*. Informal procedure and lack of precedent are the cons of the ADR."
Respondent B	"*Court or tribunal settlement involves higher court fees and long procedure or time in the dispute solution." ADR is good in the context of the lower cost and timeliness."*
Respondent C	"*ADR is cheaper than court proceedings along with it is quicker*."
Respondent D	"*I perceived that the ADR establishment should be valued in contrast to the court because of its cost and time advantage and also it is not adversarial*."

Respondent E	"*Flexibility, control and transparency are the key pros of the ADR acceptance, but the quality of regulations is also essentially focused as the main determinant* ."
Respondent F	"*Benefits or pros are more than cons, such as low expenditure, time effectiveness, control, flexibility and accessibility. Issues like Reluctant opponent, absence of the legal rights or standard rights and lack of precedent*."

Interview Question 4- Is ADR acceptance justified for the current judicial system? State YES or NO, and justify with a reason?

Respondent A	"*I can't be sure about this acceptance because the current judicial system is significant for the economic objectives."*
Respondent B	"*No, ADR acceptance is not justified for the current system despite the limitations because standard legal rules are the key component in the dispute solution."*
Respondent C	"*Actually, I am not sure about its acceptance even though it will be beneficial for the courts and disputing parties*. The acceptance should be based on the matter of dispute and trust factor of the parties."
Respondent D	"*Yes, if the new system would be beneficial for the parties and court proceedings, that should be adopted*. *The acceptance of ADR has been contributing toward sharing of work pressure or burden of the pending civil cases or increased cases in the current jurisdiction process*."
Respondent E	"*Yes, I do agree with this ADR acceptance due to the benefits, but the key factor behind its selection should be focused*."
Respondent F	"*Both systems can be used for civil dispute settlement as per my opinion so as to overcome cons and enjoys benefits in terms of the dispute solution and legal accessibility*. *The complete acceptance of the ADR system over the court is not a viable option that is also important for the development of the rule of law and attainment of the socio-economic objectives*."

3.3 Summary

Based on the overall responses exhibited in the above tables, it has been summarised that participants are agreed or are in favour of the ADR establishment due to the reason it's more advantages or pros over court proceedings. ADR is the supportive legal solution and mechanism that is comparatively significant over the court or tribunal in civil cases. The delayed process in the litigation, even after it is based on the formal system and the standard rule of law, is the major reason highlighted for the acceptance or establishment in the contemporary judiciary system. Apart from these, the ADR acceptance is also supported by the participants for the multi-fold or numerous benefits as a whole.

Chapter 4: Data Analysis/Findings

4.1 Introduction

This chapter includes the results and findings of the overall research by creating various themes in order to develop useful conclusions. The themes facilitate developing deep insight about the topic and help in enhancing the understanding.

4.2 Thematic Analysis

Thematic analysis facilitates an effective analysis of the qualitative data, which helps in understanding patterns by the generation of themes. It is basically a method used for data description through detailed construction and analysis of themes. Moreover, the thematic analysis includes a critical review of themes that have been created by assessing the data (Braun and Clarke, 2021). Thus, it is a great method for developing findings from the research study.

Theme 1: Significance of the ADR in Civil Cases Settlement Based On Benefits (Pros) and Costs (Cons)

Benefits and Pros of ADR in Civil Cases Settlement

Cost Effective

ADR is often considered a cheaper way of solving and settling disputes because mediation provides a quick solution without going to court. Taking the case into court by legal actions is an extremely costly way of solving it as it involves heavy formalities. However, in ADR, the settlement is an easy process which involves less cost and provides solutions at a quick rate. Court claims and legal actions charge fees which are costly. For example- fees for a brief civil case and settlement process in the UK are between £35 to £120. Due to this, many people are unable to afford the court claims. However, ADR acts as a feasible option for many people as it provides scope for settling the case in a cost-effective manner (Menkel-Meadow, 2018). In ADR or mediation, the people involved in the case are usually payable for their legal fees and have to contribute to the mediator's fee, which is comparatively cheaper than going to court. Negotiation between the parties often acts as the cheapest way of ADR because both parties are inclined towards compromise, which leads to a smooth settlement without the involvement of huge costs (Alexander, Walsh and Svatos, 2017). Thus, due to the cost-effectiveness in settling disputes, many parties highly prefer ADR in civil cases.

Quick in Settling Cases

Several methods of ADR are extremely quick and settle the case in a quicker way, such as mediation and direct negotiation than claiming in the court. Procedures in the court are usually slow and take a long time to come to a solution by resolving and settling the case. Moreover, ADR relieves the court from civil cases and takes the burden of settling the cases in a quick way. In negotiation, both the parties involved in the case are allowed to share their viewpoints, and in the end, they come up with a mutual solution which is beneficial for both the parties. This is a fast and quick procedure (Bingham *et al.*, 2008). However, in courts, there is no scope for sharing different opinions with utmost ease, and it usually takes a lot of time to settle disputes.

Not Adversarial

Using ADR methods such as mediation leads to healthy communication between the parties where both the parties are focusing on finding a useful solution so that case can be settled. However, the court cases are usually not cooperative and make the situation of the case worse by putting one party against the other party. Due to this, the parties do not communicate in a positive manner which often leads to the creation of conflicts. Besides this, ADR involves hearing and considering the opinions of the other party in order to agree and settle the case with peace and harmony (Saul, 2012). Thus, it is a great way of solving disputes by setting them at a unified solution.

Highly Flexible

ADR methods are completely flexible as compared to the courts. Unlike the court, ombudsmen often investigate and handle the case by scrutinising the documents and case letters without conducting a formal and structured hearing with the parties. In ADR, both parties come together to have one-on-one discussions so that they can closely analyse the case. There is great flexibility as ADR can settle disputes even on phone calls or e-mail (Tang, 2007).

Cons of ADR in Settlement of Civil Cases

Differences and Biasness in Power

Power can be highly imbalanced and biased in ADR, which affects the fairness of face-to-face negotiations. In many cases, there can be huge threat or violence issues due to which there can be unfairness and biasness in settling the dispute. In the mediation method, there can be discrimination and biasness that might occur because of different cultures and religions. Due to this, there might be a biased settlement. The differences in power can also occur between the parties on financial grounds as one party might not have access to a large number of resources

which acts as a major disadvantage (Gazal-Ayal and Perry, 2014). However, mediation is not always biased, but it requires deep consideration in some cases.

Reluctant and Resistant opponent

In order to conduct the mediation in an effective way, both parties should show equal participation. However, in many cases, one party is unwilling to settle the case, which often wastes the time of the other party, and no meaningful solution can be drawn. Mediation can only happen if both the parties are completely involved and give input in settling the case. Most of the time, the whole burden comes on one party as the other party is highly ignorant of the dispute. Due to this, the case cannot be settled, and the parties might have to claim in court in order to resolve the dispute (Ivins, 2017).

Unalterable Decisions

In ADR, the decisions made by ombudsmen are usually final, and no party can change the decision if they are unable to understand. Due to Arbitration, the decisions are usually legally bound and are irreplaceable by the parties. No party has the authority to reject the decision in ADR even if the decision is not in their favour. Besides this, the parties have no liberty to make the decisions and claim them in court. ADR often has rigid decisions which provide no scope to the parties to demand modifications in decisions and convert them in their favour (Menkel-Meadow, 2018). Thus, the decisions are binding and irrevocable, which acts as a disadvantage for the parties.

Poor Quality Standards

It is extremely difficult for the parties to evaluate and choose an effective ADR service because there are no standard regulations or quality aspects that can help in determining the choice of ADR service. Due to this, the parties often get confused and enter into wrong methods, which act as barriers to solving conflict and settling the case (Moreover, there is no consistent and stable quality of ADR services which makes it unpredictable for the parties to make a decision, thereby making it extremely challenging to select an effective ADR service (Clark Rustagi and Laine, 2014). Thus, it is a huge disadvantage of ADR because it makes the parties clueless and confused.

Lack of Precedent

The solutions and settlements acquired from the ADR method lack in acting as precedent for future situations or cases. The settlements are usually non-public and confidential. Moreover, the judgments in ADR fail to provide a strong justification for the settlement of the case, due to

which it cannot be used for future purposes. In order to create a legal point, the parties have to appeal in court so that they can make the settlement reliable for other people as well (Weber, 2015).

Theme 2: Significance of the Court or Tribunal Process in a Civil Case Based On Benefits (Pros) and Costs (Cons)

Benefits and Pros of Court or Tribunal Process

Accessibility

The court or tribunal process has the main advantage of easy accessibility for all the people. It is easily accessible to a larger number of the population, which facilitates people to resolve their conflicts and settle civil cases. Courts or tribunals are present in every part of the world, including a small town or a big city which provides immense convenience to the people to file cases and acquire justice. Due to easy accessibility, many parties prefer claiming in courts as it has become an easy and less-complicated way to appeal in courts. Besides this, courts are a more trustable way of settling civil cases in a smooth manner (Creutzfeldt and Sechi, 2021).

High Expertise

The court or tribunal process facilitates acquiring expert advice, which helps in settling the cases in an effective manner. The experts in courts and tribunals provide relevant advice and different ways of solving the conflicts, thereby smoothening the whole process of settlement. Moreover, the court or tribunal process forms rational opinions by critically analysing the whole case and also conducts cross-examination with the parties in order to gather useful evidence. Besides this, the courts or tribunal process scrutinises the whole case and conducts questioning with the parties in order to suggest meaningful solutions (Love, 2018). Thus, it acts as a good advantage of the tribunal process or court.

Controls Crime and Violence

Courts and tribunal processes have complete control over criminal activities and take strong actions against them. Between two parties, if one party enters into violence and uses abusive behaviour against the other party, the court takes strict action for the abolition of such activities. Controlling the crime is a major part of the court or tribunal process, and it strictly prohibits unlawful activities and abuse. By doing this, the court or tribunal system focuses on providing justice to the victimised part by settling the case quickly. Besides this, the courts or tribunal process effectively resolves the crimes and abuses in civil cases and quickly resolves the conflicts (Schultz, T. and Ridi, 2017).

Reliability and Precedent

The settlements and solutions provided by the court or tribunal process act as a useful source for future cases because it is completely reliable and relevant. Unlike ADR, the settlement provided by courts is not completely confidential and has scope for providing aid in future cases and issues because the judgments from the court or tribunal process usually provide valid pieces of evidence and justification for every step, which increases the reliability of parties. Moreover, the settlements and solutions provided by the court or tribunal process are also reliable for other people because of their immense credibility and proper pieces of evidence. Courts or tribunal processes always use evidence-based criteria in developing solutions and giving judgments which act as a major advantage (ZAMMIT BORDA, 2013).

Quality Regulations

The courts or tribunal process has defined quality criteria and regulations, which provides good scope to the parties to rationally choose a service. This is because the services of court or tribunals have a standard method and consistent quality in providing services to the parties, which helps the parties to make quick decisions about choosing a service (Preston, 2014). Thus, it helps in removing the confusion of the parties and acts as an advantage for the court or tribunal process.

Cons of Court or Tribunal Process

Pendency of Cases and Delays

Despite so many perks of the court or tribunal process, pendency and delays are major barriers in the court or tribunal process. There are a large number of case files pending in the courtrooms and are not considered for further proceedings. The judiciary fails to provide justice to the parties on time which causes dissatisfaction and leaves a negative image of the court or tribunal process. A large number of cases are registered in courts on a daily basis but are significantly ignored. Even if the court starts hearing a case, the settlement takes a long time and goes on for years in many cases. This is a major drawback of the courts or tribunal process (Bielen and Marneffe, 2017).

Poor Interaction between Parties and Court

The interaction between the parties and the court is not very effective in the process of court or tribunals, due to which the flow of information is poor. This affects the decision making and settlement of the case (Miller, 2013).

Partiality and Lack of Transparency

Many times, the judgments and settlements provided by the court or tribunal process are partial and done on the basis of biasness. However, this is not always an issue but requires deep consideration at the time of the hearing (Berger and Neugart, 2011).

Corruption

This is a commonly prevailing issue in court or tribunal process as a lot of times; bribes are taken for settling the cases in favour of one party. Corruption is an unethical practice which is used in courts, and it largely affects the decision making and settlement process of judgement providers (Becker *et al*., 2016).

Theme 3: Impact of ADR Establishment on the Court or Tribunal and Disputing Parties in Civil Cases

From the interview responses, it has been analysed that ADR establishment positively impacts the court or tribunal as it helps manage the overburden of civil cases. It is a fast and efficient dispute settlement process in which the court can appoint an arbitrator. Thus, the ADR establishment is proved supportive for the court or tribunal for the smooth workflow and process by overcoming delayed jurisdictions. The issue of time or delay in the dispute resolution is mitigated with the ADR establishment that also serves as a favourable option for the disputing parties and the court system (Sourdin, Li and McNamara, 2020). In the context of the COVID-19 pandemic and litigation delays, the ADR establishment is one of the court innovations that facilitate solving conflicts efficiently and equitably, along with significant other benefits inferred in the first theme.

ADR establishment also improved "access to justice" by raising system transparency (Cortes, 2018). Critical observations published in the Alternative Dispute Resolution Guide (n.d.) reflected that ADR establishment works separately from the judicial system that cannot be considered a substitute. There are no changes integrated with the establishment of the ADR in the legal norms, and thus, its establishment cannot be impacted by standard legal rules or norms. ADR establishment leads in attaining "the rule of law" and economic development-related objectives along with civil society and disadvantaged groups' support by proving the power of the dispute solution without much cost (Alternative Dispute Resolution Guide, n.d, p. 1). Accessibility impediments in getting justice in civil cases are feasible with the ADR establishment. In the context of the benefits, the ADR supports or supplements the court or tribunal work process, social change, and dilution of the conflicts or disputes in socio-economic development. It has been analysed that

ADR establishment benefits cost minimisation, quick dispute resolution, relationship maintenance, equity or neutral opinion, trust and comprise constituencies. Overall, it has been generalised that the rule of law is being effectively developed with the ADR. In addition to this, it also contributes toward bringing reforms in the court proceedings, disputant satisfaction and improves justice accessibility. Thus, ADR strategies are the best dispute settlement options for managing civil cases efficiently within the Arbitration & Conciliation Act.

Theme 4: Comparative Analysis of the Significance of the ADR and Litigation

The comparative analysis of the significance of the ADR and litigation or court proceedings has indicated the effectiveness of the ADR in comparison to the court proceedings. It is based on the pros and cons assessment and existing jurisdiction system and disruptions after the pandemic and lockdown. Several literature studies have also validated the ADR's usefulness in bringing reform to the legal and justice system. There are many pros of the ADR, including cost, time, equality and satisfaction of the parties, and specific cons. In contrast, the court or tribunal has also suffered from various issues reflected in the above theme. One of the significant and commonly highlighted issues is the time or excessively delayed process that badly affects the trust of the parties and also criticised system transparency (Doneff and Ordover, 2014).

Several pending cases in the civil courts have negatively affected the significance of court proceedings even though they are based on law. On the ground or factor of accessibility, relative significance is higher in the case of the ADR, and thus, justice or dispute settlement is easily possible with the fast process. Another essential factor that reveals the significance of the ADR is the control power that can be enjoyed by the disputing parities (Cohen, 2002). The level of satisfaction is higher in the case of the ADR due to reasonable control over processes and outcomes. The full details of the ADR process used in the civil dispute settlement are accessible for the parties that are not feasible in the litigation. Disputing parties enjoyed the benefit of the engagement in the ADR as it gives scope to access information about legal rules. Moreover, it has been analysed that dispute solutions in the ADR, such as disputing parties, have a right to accept a "joint-agreed solution" without any undue force and influence. The settlement by the arbitrator is more focused on both parties' interests for their future relations (Cohen, 2002). Literature findings by Blake, Browne and Sime, 2016 also supported this fact by revealing significance of the ADR in context of the collaboration as the direct involvement of the parties given them advantage to understand individual perspective. Fry, Bj and Bjorkqvist (2013) also validated more

significance of the ADR that not only in terms of time and legal fees, but it also facilitated control through informing parties about entire procedure and outcome decisions along with their influence on the stakeholders. ADR focuses on the relationship development as the both parties satisfaction in this dispute solution resolves issue of grudges and point of dispute between the parties and eventually promotes a change to agree on the mutually –agreed solution. As per the literature findings by Hopt and Steffek (2013), time and cost issue in the litigation raises issue of anxiety that negatively affect relationship as well. In concern of this, higher settling rate of dispute in the ADR, which is around 85% or more, helps in maintaining strong relationship (Hopt and Steffek, 2013). Confidentiality is another point of significance of the ADR, but it also integrates transparency in the solution for the parties' satisfaction (Coleman, Deutsch and Marcus, 2014).

4.3 Summary of Key Findings

It has been analysed that the ADR method is more cost-effective as it does not involve huge costs as compared to courts or tribunal process. ADR is comparatively cheaper as it is less complicated and provides settlement of the case quickly and efficiently. ADR is extremely flexible and provides settlement of the case with utmost ease and convenience. However, the ADR has a disadvantage of poor quality regulations and difference in power which acts as a barrier to its effective services. In contrast, it has been evaluated that the court or tribunal process facilitates acquiring expert advice and is easily accessible to every person. It also has quality regulations and acts as a precedent for further cases. However, the courts or tribunal process are often corrupted and lack transparency which acts as a disadvantage. Besides this, the major disadvantage of the court or tribunal process is pendency and delays in cases. From the other themes, it has been inferred that the ADR establishment is being supportive for the courts and disputing parties because the ADR complements or supports judicial system that experienced higher civil cases overburden due to delayed process. The comparative significance of the ADR over court proceedings has reflected more benefits of settling civil cases through this new process or vehicle, such as lower costs, lesser paperwork, and reduced time, mutually-agreed solution control effectiveness, relationship and trust as well.

Chapter 5: Discussion

In contrast to the ADR, the traditional litigation or court proceedings based on the rule of law or standards are less significant because of time, cost, complexity, inflexibility, lesser control, injustice, inaccessibility, and lack of transparency. Regarding these issues, the ADR is the best way for the dispute solution that does not substitute and alternate the courtroom settlement (Alternative Dispute Resolution Guide, n.d.). As per the system of Civil Justice, adoption of the ADR is the organised vehicle or mechanism that allows disputing parties to take advantage of a customised system that is also based on the law and act for the agreed solution with equity (Anderson, 2010). Thus, it has been analysed that ADR for civil cases is an informal process, yet it supports promoting the rule of law and economic and other social objectives (Byrne and Heneghan, 2011). Furthermore, the intended focus of the ADR is to foster collaboration in the dispute settlement as the parties are actively engaged with a good level of flexibility and control over the legal processes (Cohen, 2002; Fry, Bj and Bjorkqvist, 2013).

However, it also has been analysed that some forms of ADR sometimes cost more to the parties in both time and cost aspects. They directly or indirectly influence both the parties in taking on the mediator's assistance or preceding self-judgements overvaluing the advice or solution presented by the arbitrator. The relevant impact of this type of entangled decision altogether leaves people with even greater confusion rather than simplifying the conflict resolution system. The neutrality aspect of the mediator has also been exposed to several criticisms in this field due to not valuing the aspects of people’s autonomy. 2015, which was focused on addressing the challenges in union recognition, and the Workforce Relations Act 2015, which was developed specifically to simplify and generalise the dispute resolution system (Maccarrone, Erne and Regan, 2019).

It has been discussed that the ADR has been gaining more value in the present time than legal proceedings inside the courtrooms that involve substantial legal fees and massive time in the entire procedure from the paper to the hearings and final settlement as a whole. The fast dispute settlement of civil cases through the ADR has led to an increase in cases settlement rate by 85% or more, as per the statistics in the literature finding (Hopt and Steffek, 2013). Moreover, it has also been discussed that the ADR also promoted the right to use or take justice or accessibility of the legal system for all to get justice for any disputing issue (Sammon, 2017; Ntuli, 2018). The higher cost fees and multi-jurisdictional lawsuits are also not issues in the ADR as inferred from the work of O'Leary and McGarry (2016), and thus, it has been indicated that it is the efficient way

for the case settlement with higher autonomy. It has been discussed that accessibility of justice while using the ADR than the court is the advantage that prevents the issue of anxiety in the case of resolving disputes through litigation or court proceedings (Hopt and Steffek, 2013). The ADR is the best resolution to get dispute settlement outcome for the civil disputes or disputes in any area with more ease, control and flexibility (Cohen, 2002; Salmi-Tolonen, 2011). Several courts have supported the enactment of the ADR and its dispute settlement or solution as per the legal aspect. Thus, it has been discussed that the ADR is given preference for civil cases for a faster and more efficient case settlement. Trust in the court or judicial system is reflected as the issue that is overcome with the solution of the ADR establishment. An underpinning of the literature (Muigua, 2013), equality is the advantage in the ADR because of the third party's involvement as an arbitrator, who is impartial towards both parties, and values the fair and agreed solution without any force for the dispute settlement.

In this context, several companies that take part in these methods of conflict resolution ended up incurring greater costs, as identified and discussed in the above sections with examples such as Chevron, which had to spend $25,000 following the verdict. However, there are some sub-methods and techniques which are informal yet very effective and commonly suggested by the professionals in this field, methods such as mini-trails. Similarly, the major organisation that works to provide ADR services in Ireland, namely as Ombudsman, regulators, Professional bodies or Trade associations, and Commission and Commissioners. In many countries, due to their effective applications of both cost and time saving, in countries such as China, they are part of the judicial system. However, at the same time in Ireland, many acts have been passed which are focussed on stabilising the dispute resolution system acts, such as Workplace Relations Act, Industrial Relations Act and so on.

Furthermore, it has also been discussed and analysed that through the use of ADR, many traditional ways of handling disputes have been changed, especially in the legal areas, where its significance has brought great mobility into the judicial system. Similarly, in some sectors of the economy, including sports, industries have become mandatory to go through a set number of channels before proceeding with the petition in the courts; this includes submitting disputes to mediators and arbitrators as per the Irish law. This practice is found very effective as it is not just very cost-effective for the parties but also saves a significant amount of precious time for the courts, which could be utilised in handling cases of much more significant concern. In many

countries, courts are no longer viewed as the heart of the legal system. While it is true that courts serve an important role in preserving rights and supporting the rule of law, the truth is that many people in conflicts resolve their differences before resorting to court.

Moreover, in light of the COVID-19 pandemic, to facilitate and support this flexibility, its online presence is also available, which is commonly recognised as online dispute resolution combining the technologies and ADR outside the judicial premises. This type of system also facilitates both parties more flexibility in the process rather than following the set procedure in the judicial framework. The flexibility it gives includes a selection of the venue, appropriate law guiding the conflict, decision-makers/third party trained mediator and even the language in which the proceedings. This autonomy sometimes can overlook the aspects of credibility of the outcomes or end decisions or further could complicate the discussions (Olaoluwa, 2020). However, the basis upon which this resolution system is enacted describes the intention and the level of understandability presented by both the parties regarding solving the conflict in the most effective and efficient method, which significantly increases the chances of health settlement.

Although, the choice of selecting the best alternative among all the methods available is a different story as there are no quality aspects or standard regulations that could guide or help the parties in ascertaining their suitability with specific situations, which ultimately identified as a barrier in the utilisation of this method (Puig and Shaffer, 2018). Additionally, unlike in the courts where petitions can be challenged on the higher ground taking the outcomes as undesirable; however, in ADR, the decisions that were finalised are taken as unalterable or irreplaceable. This ultimately claims their liberty of making a further decision and backing them up in the court. The uses of ADR are not just limited to resolving conflict but it also helps in reforming the legal system. For instance it has been discussed that the ADR can be a part of the legal system where it can work as a method to manage and reduce the petitions. As if the principal challenges simply with the judiciary are cumbersome as well as faulty processes rather than bias and pervasive corruption, ADR programmes can provide effective interventions to accelerate case resolution (Letto-Vanamo, 2021).

Conclusion

In the above chapters of data presentation, data findings and discussion, it has been identified that civil cases settlement in the ADR and court or tribunal are relatively different in terms of formal and informal proceedings that addressed the first research objective. From the data analysis/results, it can be concluded that ADR follows an informal procedure outside the courtroom where dispute parties are directly engaged with the arbitrator. The disputed outcome by the arbitrator is based on both sides' arguments and evidence in relation to the civil case. In the case of ADR, if it is binding, the right to a trial has been relinquished, which means the arbitrator's decision acceptance is the final option for the dispute parties.

On the other hand, the legal process in the court or tribunal follows a formal process within the standard protocol inside the courtroom. Lawyers are taken liability for all hearings or discussions concerning a party, and judges make final decisions based on the arguments and evidence. However, in the context of the comparative review, it has been indicated that ADR is in a "quasi-judicial adjudicatory process", while the court or tribunal is in an "adjudicatory process". Parties can appoint the arbitrator in this case, or the court may also involve in such a process and thus, the courts also accept arbitration. Arbitration is governed and controlled under the "Arbitration & Conciliation Act", while relevant statutes regulate court proceedings.

The second research objective in the context of the legal relevance of the ADR for the civil cases is the best and fit option than the court or tribunal to manage dispute solutions through the less complicated procedure in private that also abided with the strict procedure likewise in the court proceedings. It can be concluded that ADR in civil case settlement is more beneficial with higher pros over cons, such as quick settlement at relatively cheaper costs than court or tribunal. More convenience in the ADR is also a significant advantage to the parties concluded from the results. Higher transparency and no issue of the delayed procedure is also an advantage in the ADR that is also the relative significance of this form of legal proceedings. Pros of the ADR in the legal settlement are importantly given consideration to the cons and value of the essential factors before adopting the ADR.

In the context of the third objective, it can be indicated on the basis of the results related to the significance of the court or tribunal process in a civil case that expert and registered lawyers' advice is more authentic or reliable than arbitrators. The concern or issue of qualification or experience of arbitrators raised criticism or doubt on the dispute solution of the ADR. Besides this,

accessibility of the litigation with the support of a lawyer is also an advantage in the court or tribunal. Additionally, it has been generalised that trustworthy decision in the judicial proceedings due to quality regulations and scope of trial in the higher courts has indicated its significance in civil cases resolution. The court or tribunal procedure, in contrast to the ADR, is, involves huge paperwork and a number of hearings or discussions, court fees and less flexibility. ADR than that of court or tribunal in settlement of the civil cases is a far better option with higher pros, but certain risks within such informal proceedings can be ignored, such as power difference, probability of unfairness or biased decision and unwilling opponent party in the case. Based on the pros and cons of both dispute settlement processes, it can be concluded that the choice between the ADR or judicial or tribunal proceedings is based on the parties' discretion. The preference of the ADR is that the court is provided with the advantage of control in the procedure of the settlement of a civil case in a flexible and smoother way.

It has been argued that parties' relationship after the ADR turns stronger than is not in the case of the court or tribunal process that is indicated a different focus within the litigation. The civil case settlement in the court is based on the enacted and standard laws defined for the particular charge in a civil case; the ADR solution is based on the mutually considered or agreed solution after the consideration of both partiers' issues or arguments that also inferred from the assessment that not imposed on the parties. The control is majorly in the hands of the parties, not on the arbitrator and thus, higher satisfaction in this type of legal proceedings. As per the theory of service satisfaction, it can be concluded that preference for the ADR in civil cases is provided relative satisfaction in the context of the benefits, such as control, efficiency, fast processing and less argumentative. Overall, it can be concluded that the significance of the ADR in civil cases in comparison to the court process is reasonably good in specific to the parties' interest, but relevance to the court or tribunal cannot be overlooked in relation to the expert advice, formal procedure, and quality regulations.

In the present time, preference for the ADR in civil cases is the approved and preferred choice because courts are also valued the decisions of the arbitrators that could save the time of the parties in getting the right and efficient solution without procedure delay that stated findings in the relevance of the fourth objective. Altogether, selection between the ADR and court proceedings is not only to be based on the pros and cons even though these are substantial parts showing comparative significance, but the selection of the procedure is essentially valued to the

purpose through which dispute can be resolved in the best way, bargaining power and belief or suitability of the procedure adopted for the civil dispute settlement. In the context of the situation aftermath the COVID-19, long term waiting for the court or tribunal in the civil cases has been predisposed parties' interests toward the ADR that also supported by the court in terms of the relevance and benefits thereof.

Reflection

My experience in this dissertation was good as I have learned good knowledge about the legal concept of the ADR and its significance in a civil case in contrast to the court or tribunal, and skills development while collecting, interpreting and presenting qualitative data. In particular, the stages of the Gibbs Reflective Cycle learning experience are presented below.

Description

This dissertation was based on the practically implied topic of the ADR and its significance in the court proceedings in civil cases. The scope of investigation in this dissertation was quite broader because a comparative analysis between ADR and court proceedings or litigation was conducted to explore the pros and cons, and finally conclusion for the acceptance of the ADR over court proceedings or vice versa. This was my first big academic project of 20000 words in which a number of the tasks or milestones needed to be achieved.

Feelings

In this project, I was not sure about success in relation to the time and task management at the preliminary stage. Thus, I thought that completion of this endeavour was not easy as I could have to face many challenges, and I felt very anxious and nervous. Qualitative data collection on this vast topic and further interpretation was the big challenge as I did not work on the chosen methodology and method that stirred mixed feelings. I was not only nervous due to the risk of failure, but I was also excited to learn about a new research method. I did use the survey method in my earlier small research projects, but I did not have much idea about qualitative research. Thus, I thought the application of qualitative research was somewhat different from the quantitative, but I realised that qualitative research was entirely different. Open discussion and conversation in the interview method led me to develop communication and confidence that nurtures my positive feelings.

Evaluation

My experience in this project was good in terms of developing subject knowledge, interview data collection or good response from target interviewees, coordination with the supervisor and data extraction in the desktop research. Despite good experience in this report, this research journey was like a roller-coaster due to bad experiences like huge time wasted in getting participants' consent as the cause of COVID-19. Another bad experience I faced in the interview schedule was the issue of the availability of the participants. Interview schedule as per

the convenience was the critical issue to timely attain this milestone. I got success in completing the interview with the support of my proactive planning. It has been evaluated that bad experiences in the project led to learning good lessons that would have value for my future career and other projects.

Analysis

From this situation, it has been analysed that learning in the real or practical context has contributed to self-motivation and self-efficacy. Besides this, multiple realities search in this dissertation was better to know different experiences rather than responses delimited to the questionnaire's close-ended options and scale. The generation of themes or code from the transcripts was another good learning in this dissertation because key factors generated from the detailed data were not an easier job; as such, knowledge of inferring trends is needed to the best extent. It has been analysed that interpretation skills development is not an only achievement in this dissertation, but other personal development skills, such as writing, presentation, and interpretation, have also improved, which would lead my work as an editor and content writer in the future career field.

Conclusion and Action Plan

In this dissertation, I could have done a survey with the parties to know their thinking and experience about the ADR or tribunal proceedings. In addition to the arbitrator and lawyers, parties' involvement in this dissertation could have contributed to revealing the significance of ADR from their perspectives as well. In the future, this project would have been conducted in specific for quality regulation, to integrate laws or acts justifying ADR's highly implications than judicial proceedings.

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Appendices

Appendix 1: Interview Questionnaire

1. How has the court or tribunal worked in civil cases settlement over the years? How satisfied are you with this litigation?

2. Do you think the shift from litigation to the ADR is the right move in the contemporary period?

3. What is the significance of the ADR establishment in contrast to the court proceedings in civil cases? Please state some pros and cons of the ADR and court or tribunal dispute settlement?

4. Is ADR acceptance justified for the current judicial system? State YES or NO, and justify with a reason?

Thanks

Appendix 2: Participants Details

Lawyer	**Respondent A**
Lawyer	**Respondent B**
Lawyer	**Respondent C**
Arbitrator	**Respondent D**
Arbitrator	**Respondent E**
Arbitrator	**Respondent F**